

IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CLARK COUNTY

STATE OF OHIO

Appellee

v.

DEANDER Z. PULLIAM

Appellant

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C.A. No. 2026-CA-1

Trial Court Case No. 25-CR-604

(Criminal Appeal from Common Pleas
Court)

**FINAL JUDGMENT ENTRY &
OPINION**

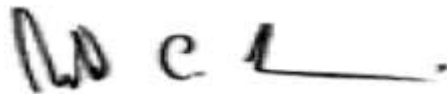
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Pursuant to the opinion of this court rendered on October 9, 2026, the judgment of the trial court is affirmed.

Costs to be paid as stated in App.R. 24.

Pursuant to Ohio App.R. 30(A), the clerk of the court of appeals shall immediately send a copy of the court's ruling to each party and note that action on the docket. Additionally, pursuant to App.R. 27, the clerk of the court of appeals shall send a certified copy of this judgment, which constitutes a mandate, to the clerk of the trial court and note the service on the appellate docket.

For the court,



RONALD C. LEWIS, PRESIDING JUDGE

TUCKER, J., and HUFFMAN, J., concur.

OPINION
CLARK C.A. No. 2026-CA-1

LUCAS W. WILDER, Attorney for Appellant
JOHN M. LINTZ, Attorney for Appellee

LEWIS, P.J.

{¶ 1} Defendant-appellant Deander Z. Pulliam appeals from his conviction in the Clark County Common Pleas Court, which followed his guilty plea to one count of failure to comply with an order or signal of a police officer. For the following reasons, we affirm the judgment of the trial court.

I. Course of Proceedings

{¶ 2} On August 11, 2025, Pulliam was indicted by a Clark County grand jury on one count of failure to comply with an order or signal of a police officer, a third-degree felony in violation of R.C. 2921.331(B), and one count of receiving stolen property, a fourth-degree felony in violation of R.C. 2913.51. These charges related to Pulliam's actions on July 30, 2025. Pulliam was arrested on August 12, 2025, and was arraigned two days later. He pleaded not guilty to both charges, and the trial court set a \$15,000 bond. Pulliam did not post bond and remained in jail.

{¶ 3} On August 26, 2025, the trial court issued an entry scheduling a jury trial for October 15, 2025. On the day of the scheduled trial, the State filed a motion to continue the trial because discovery had not yet been completed. According to the State, it had not received discovery related to the receiving stolen property count despite the fact it had requested information from Park Ridge Police Department in Illinois on August 13, 2025. The State also acknowledged that it had inadvertently failed to produce several photos to defense counsel but ultimately produced those photos after defense counsel raised a

concern. The State noted that defense counsel contested whether the State had turned over all the pertinent reports in the case.

{¶ 4} The trial court granted the motion to continue for good cause over Pulliam's objection and rescheduled the trial to October 28, 2025. The trial court subsequently issued an entry continuing the trial date to November 24, 2025, because the court was presiding over another trial on October 28 and Pulliam's counsel was involved in that other trial.

{¶ 5} On November 24, 2025, the parties notified the court that they had entered into a plea agreement under which Pulliam agreed to plead guilty to one count of failure to comply with an order or signal of a police officer. In return, the State agreed to recommend the dismissal of the receiving stolen property count. The trial court accepted Pulliam's guilty plea, found him guilty of failure to comply with an order or signal of a police officer, a third-degree felony in violation of R.C. 2921.331(B), and dismissed the receiving stolen property count. The court ordered a pre-sentence investigation.

{¶ 6} On December 22, 2025, the court held a sentencing hearing. At the beginning of the hearing, Pulliam made an oral motion to withdraw his guilty plea. The trial court considered the motion but denied it. The court sentenced Pulliam to 30 months in prison, gave him 142 days of jail-time credit, suspended his driver's license for 10 years, and ordered him to pay court costs. Pulliam filed a timely notice of appeal.

II. Trial Counsel Did Not Provide Ineffective Assistance by Failing to File a Futile Motion to Dismiss on Speedy Trial Grounds

{¶ 7} Pulliam's first assignment of error states:

Trial counsel was ineffective for failing to move to dismiss the case on speedy trial grounds.

{¶ 8} “In order to prevail on an ineffective-assistance-of-counsel claim, a defendant must prove that counsel’s performance was deficient and that the defendant was prejudiced by counsel’s deficient performance.” *State v. Davis*, 2020-Ohio-309, ¶ 10, citing *State v. Bradley*, 42 Ohio St.3d 136, 141-142 (1989), and *Strickland v. Washington*, 466 U.S. 668, 687 (1984). “Thus, the defendant must demonstrate that counsel’s performance fell below an objective standard of reasonableness and that there exists a reasonable probability that, but for counsel’s error, the result of the proceeding would have been different.” *Id.*, citing *Bradley* at paragraphs two and three of the syllabus. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Bradley* at 142, quoting *Strickland* at 694.

{¶ 9} “The right to a speedy trial is a fundamental right guaranteed by the Sixth Amendment to the United States Constitution, made obligatory on the states by the Fourteenth Amendment. Section 10, Article I of the Ohio Constitution guarantees an accused this same right.” *State v. Hughes*, 1999-Ohio-118, ¶ 7, citing *State v. MacDonald*, 48 Ohio St.2d 66, 68 (1976). “This constitutional mandate was codified in Ohio by the enactment of R.C. 2945.71, which designates specific time limits for bringing a defendant to trial.” *State v. Louis*, 2020-Ohio-951, ¶ 28 (2d Dist.).

{¶ 10} Pursuant to R.C. 2945.71(C)(2), a felony defendant must be brought to trial within 270 days after the defendant’s arrest. “For purposes of calculating speedy-trial time, ‘each day during which the accused is held in jail in lieu of bail on the pending charge shall be counted as three days.’” *State v. Ramey*, 2012-Ohio-2904, ¶ 15, quoting R.C. 2945.71(E). “Thus, subject to certain tolling events, a jailed defendant must be tried within 90 days.” *Id.*, citing R.C. 2945.71(E). The day of arrest is not counted when calculating a defendant’s speedy trial time. *State v. Cimpaye*, 2020-Ohio-2740, ¶ 17

(2d Dist.), citing *State v. Cline*, 2003-Ohio-4712, ¶ 27 (2d Dist.), *rev'd on other grounds*, 2004-Ohio-5701.

{¶ 11} “Speedy-trial provisions are mandatory, and, pursuant to R.C. 2945.73(B), a person not brought to trial within the relevant time constraints ‘shall be discharged,’ and further criminal proceedings based on the same conduct are barred.” *State v. Sanchez*, 2006-Ohio-4478, ¶ 7, citing former R.C. 2945.72(D). However, “the prescribed times for trial set forth in R.C. 2945.71 are not absolute in all circumstances, but a certain measure of flexibility was intended by the General Assembly by the enactment of R.C. 2945.72, wherein discretionary authority is granted to extend the trial date beyond the R.C. 2945.71 time prescriptions.” *State v. Wentworth*, 54 Ohio St.2d 171, 173 (1978), citing *State v. Lee*, 48 Ohio St.2d 208 (1976), and *State v. Davis*, 46 Ohio St.2d 444 (1976). “Accordingly, R.C. 2945.72 contains an exhaustive list of events and circumstances that extend the time within which a defendant must be brought to trial.” *Ramey* at ¶ 24. These include “[t]he period of any continuance granted on the accused’s own motion, and the period of any reasonable continuance granted other than upon the accused’s own motion.” R.C. 2945.72(H).

{¶ 12} “Upon review of a speedy-trial issue, a court is required to count the days of delay chargeable to either side and determine whether the case was tried within applicable time limits.” *Sanchez* at ¶ 8. “A defendant establishes a prima facie speedy trial violation when his motion reveals that a trial did not occur within the time period prescribed by R.C. 2945.71.” *State v. Hill*, 2020-Ohio-2958, ¶ 6 (2d Dist.), citing *State v. Butcher*, 27 Ohio St.3d 28, 31 (1986). “If a defendant ‘establishes a prima facie case of a violation of his right to a speedy trial, the burden then shifts to the State’ to demonstrate either that the statutory limit was not exceeded, or that the State’s time to bring the defendant to trial was properly

extended.” *State v. Wagner*, 2021-Ohio-1671, ¶ 12 (2d Dist.), quoting *State v. Nichols*, 2005-Ohio-1771, ¶ 11 (5th Dist.), citing *Butcher* at 30-31. “Review of a speedy-trial claim involves a mixed question of law and fact. Therefore, we defer to the trial court’s factual findings if they are supported by competent, credible evidence, but we review the application of the law to those facts de novo.” *State v. Long*, 2020-Ohio-5363, ¶ 15, citing *State v. Barnes*, 2008-Ohio-5472, ¶ 17 (8th Dist.).

{¶ 13} Pulliam was in jail for more than 90 days prior to the date on which he pleaded guilty. But not all this time counted toward his speedy trial time. Based on our review of the record, we conclude that Pulliam’s right to a speedy trial was not violated and that his counsel did not provide ineffective assistance by failing to file a motion to dismiss on speedy trial grounds.

{¶ 14} On October 15, 2025, the day on which the trial was to commence, the State filed a motion to continue the trial because discovery had not yet been completed. According to the State, it had not received discovery related to the receiving stolen property count despite the fact it had requested information from Park Ridge Police Department in Illinois on August 13, 2025. The State also acknowledged that it had inadvertently failed to produce several photos to defense counsel but produced those photos after defense counsel raised a concern. The State noted that defense counsel also contested whether the State had turned over all the pertinent reports in the case. The trial court granted the motion to continue for good cause over Pulliam’s objection and rescheduled the trial for October 28, 2025. This continuance was reasonable under the circumstances and tolled time from October 15 to October 28, 2025. R.C. 2945.72(H).

{¶ 15} The trial court subsequently continued the October 28 trial date to November 24. The court explained that the continuance was because the court was presiding over

another trial on October 28 and Pulliam's counsel was involved in that other trial. This continuance was reasonable under the circumstances and tolled time from October 28 to November 24, 2025. R.C. 2945.72(H).

{¶ 16} Pulliam was arrested on August 12, 2025, and he pleaded guilty on November 24, 2025, for a total of 103 days in jail for speedy trial purposes. Subtracting the 40 days that were tolled from October 15 to November 24, 2025, results in a total of 63 days in jail that count towards the speedy trial calculation, which is well below the 90-day threshold applicable to Pulliam's felony charge. Therefore, it would have been a futile act for Pulliam's trial counsel to file a motion to dismiss on speedy trial grounds. We conclude that Pulliam's counsel was not ineffective for failing to file a futile motion to dismiss on speedy trial grounds and that Pulliam cannot establish that he was prejudiced by trial counsel's failure to file such a motion.

{¶ 17} The first assignment of error is overruled.

III. The Trial Court Did Not Abuse Its Discretion by Denying Pulliam's Motion to Withdraw His Guilty Plea

{¶ 18} Pulliam's second assignment of error states:

The trial court erred or abused its discretion in denying Pulliam's request to withdraw his plea.

{¶ 19} We review a trial court's decision on a motion to withdraw a guilty plea for an abuse of discretion. *State v. Straley*, 2019-Ohio-5206, ¶ 15, citing *State v. Smith*, 49 Ohio St.2d 261 (1977), paragraph two of the syllabus. To find an abuse of discretion, "[w]e must find that the trial court's ruling was 'unreasonable, arbitrary or unconscionable.'" *State v. Xie*, 62 Ohio St.3d 521, 527 (1992), quoting *State Adams*, 62 Ohio St.2d 151, 157 (1980).

{¶ 20} Pulliam moved to withdraw his guilty plea before he was sentenced. Generally, “a presentence motion to withdraw a guilty plea should be freely and liberally granted.” *Xie* at 527. However, “a defendant does not have an absolute right to withdraw a plea prior to sentencing.” *Id.* “Even under the more lenient standard, a defendant must show a ‘reasonable and legitimate basis for the withdrawal of the plea.’” *State v. Williamson*, 2008-Ohio-4727, ¶ 13 (2d Dist.), quoting *Xie* at 527. “A change of heart is not enough, and the trial court’s finding regarding [a defendant’s] true motivation is entitled to deference.” *Id.*

{¶ 21} In evaluating whether a trial court has abused its discretion in overruling a presentence motion to withdraw a guilty plea, we review the following nine factors: 1) whether the accused was represented by highly competent counsel; 2) whether the accused was given a full Crim.R. 11 hearing before entering the plea; 3) whether a full hearing was held on the motion; 4) whether the trial court gave full and fair consideration to the motion; 5) whether the motion was made within a reasonable time; 6) whether the motion set out specific reasons for the withdrawal; 7) whether the accused understood the nature of the charges and the possible penalties; 8) whether the accused was perhaps not guilty of or had a complete defense to the charge or charges; and 9) whether the State would be prejudiced by withdrawal of the plea. *State v. Miller*, 2021-Ohio-2606, ¶ 15 (2d Dist.). “Consideration of these factors involves a balancing test and no single factor is dispositive.” *Id.* at ¶ 16, citing *State v. Massey*, 2015-Ohio-4711, ¶ 11 (2d Dist.).

{¶ 22} In this case, consideration of these nine factors leads us to conclude that the trial court did not abuse its discretion when it denied Pulliam’s motion to withdraw his guilty plea. First, the trial court found that Pulliam was represented by highly competent counsel.

At his plea hearing, Pulliam stated that he had time to speak with his counsel and was satisfied with his counsel. The trial court's finding on this factor is supported by the record.

{¶ 23} Second, Pulliam was given a full Crim.R. 11 hearing before entering his guilty plea. During the Crim.R. 11 plea hearing, Pulliam agreed that he was entering into his guilty plea of his own free will, no one had threatened or forced him into the guilty plea, and no one had made promises that caused him to enter his guilty plea. Pulliam was informed during the plea hearing of the potential prison sentences he might receive as a result of his plea agreement, and he stated that he understood. Pulliam also signed a written plea form that contained this information. The trial court's finding that the second factor weighed in favor of denying the motion to withdraw is supported by the record.

{¶ 24} Third, Pulliam received a full hearing on his motion to withdraw his guilty plea. The trial court gave Pulliam and his counsel an opportunity to set forth all their arguments in support of the motion. This factor favors the conclusion that the trial court did not abuse its discretion when it denied Pulliam's motion to withdraw his guilty plea.

{¶ 25} Fourth, the trial court gave full and fair consideration to the motion. The trial court identified the relevant factors and explained which factors supported Pulliam's motion and which factors weighed against his motion. After hearing the evidence presented at the hearing, the trial court concluded that Pulliam simply had a change of heart relating to his guilty plea. This factor weighs in favor of a conclusion that the trial court did not abuse its discretion when it denied Pulliam's motion to withdraw his guilty plea.

{¶ 26} Fifth, the trial court found that the motion to withdraw the guilty plea was made within a reasonable time. The guilty plea was entered on November 24, 2025. Pulliam made his oral motion to withdraw his guilty plea at the beginning of the December 15, 2025 sentencing hearing. Although only 21 days passed between entering his guilty plea and his

oral motion to withdraw his plea, we must keep in mind that “[g]enerally, a motion to withdraw a guilty plea made on the day of the sentencing hearing is not made at a reasonable time.” *State v. Alexander*, 2024-Ohio 1080, ¶ 26 (2d Dist.), quoting *State v. Estep*, 2024-Ohio-58, ¶ 30 (4th Dist.). Moreover, Pulliam’s stated reasons for wanting to withdraw his guilty plea were based on information that was accessible to him before entering his guilty plea. Therefore, we conclude this factor weighs slightly against the granting of Pulliam’s motion to withdraw his guilty plea.

{¶ 27} Sixth, the trial court found that the oral motion did not necessarily set out the specific reasons for withdrawal of Pulliam’s guilty plea. But Pulliam’s counsel stated at the sentencing hearing that Pulliam believed the charge against him should have been filed as a fourth-degree felony rather than a third-degree felony. Pulliam then explained at the sentencing hearing that he had met with his attorney only twice while he was in jail and that he received the evidence from the prosecutor in piecemeal fashion, albeit before his guilty plea was entered. After reviewing the video evidence provided by the prosecutor, Pulliam believed that the video did not show a turn signal violation, which the police officer relied on in making the initial traffic stop. Further, Pulliam did not believe the video evidence showed that he put a person at risk or almost hit a car. Therefore, he believed he should have been charged with a fourth-degree felony rather than a third-degree felony violation of R.C. 2921.331. Because Pulliam identified specific reasons for his withdrawal, the sixth factor weighed in favor of granting Pulliam’s motion to withdraw his guilty plea.

{¶ 28} The seventh factor looks at whether Pulliam understood the nature of the charges and possible penalties. The record is clear that Pulliam acknowledged at the plea hearing and in his written waiver form that he understood the nature of the charges and the maximum possible penalties. The trial court orally explained all of this to him at the plea

hearing. This factor supported the trial court's decision to deny Pulliam's motion to withdraw his plea.

{¶ 29} The eighth factor concerns whether Pulliam was perhaps not guilty of or had a complete defense to the charge or charges. While Pulliam stated at the hearing that he did not believe the State should have been able to charge him with a third-degree felony rather than a fourth-degree felony, it was not clear at the time of his plea that the State could not prove that Pulliam committed the third-degree felony version of failure to comply with an order or signal of a police officer. Pulliam believed the video did not show sufficient risk of harm to qualify as a third-degree felony, but the State pointed out that the police officers could testify to the risk of harm that was not captured by the video. Pulliam was aware of this evidence at the time he pleaded guilty and did not maintain innocence at that time. Rather, Pulliam focused on his potential sentence rather than a claim of innocence. This factor weighs in favor of the trial court's decision to deny Pulliam's motion to withdraw his guilty plea.

{¶ 30} The ninth factor relates to whether the State would have been prejudiced by withdrawal of the plea. There is no evidence in the record relating to this factor, but the trial court noted that the State likely would not have been prejudiced. Given the relatively short amount of time that had passed between the date of Pulliam's crime and the date on which the trial court ruled on Pulliam's motion to withdraw his plea, we agree with the trial court that this factor weighed in favor of granting Pulliam's motion.

{¶ 31} The trial court considered and balanced all nine factors before finding that they weighed against granting Pulliam's motion to withdraw his guilty plea. We conclude that the trial court did not abuse its discretion in denying Pulliam's motion to withdraw his guilty

plea. As the trial court found, it appears that Pulliam simply had a change of heart between the time he entered his guilty plea and the date of the sentencing hearing.

{¶ 32} The second assignment of error is overruled.

IV. Conclusion

{¶ 33} Having overruled the assignments of error, we affirm the judgment of the trial court.

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TUCKER, J., and HUFFMAN, J., concur.