

COURT OF APPEALS
COSHOCTON COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-VS-

SHAWN BRADFORD

Defendant-Appellant

JUDGES:

Hon. William B. Hoffman, P.J.

Hon. John W. Wise, J.

Hon. Craig R. Baldwin, J.

Case No. 2023CA0010

O P I N I O N

CHARACTER OF PROCEEDINGS:

Appeal from the Coshocton County Court
of Common Pleas, Case No. 2020 CR
0144

JUDGMENT:

Affirmed

DATE OF JUDGMENT ENTRY:

August 16, 2023

APPEARANCES:

For Plaintiff-Appellee

BENJAMIN E. HALL
Coshocton County Prosecuting Attorney

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For Defendant-Appellant (Pro Se)

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Hoffman, P.J.

{¶1} Defendant-appellant Shawn S. Bradford appeals the March 31, 2023 Judgment Entry entered by the Coshocton County Court of Common Pleas, which denied his Motion for Withdrawal of Guilty Plea. Plaintiff-appellee is the state of Ohio.

STATEMENT OF THE CASE¹

{¶2} On November 23, 2020, the Coshocton County Grand Jury indicted Appellant on one count of trafficking in a fentanyl-related compound, in violation of R.C. 2925.03(A)(2), (C)(9)(f), a felony of the first degree. The count included three forfeiture specifications involving a 2003 GMC Envoy, U.S. currency in the amount of \$432.00, and real property located in West Lafayette, Ohio. Appellant appeared for arraignment on November 30, 2020. The trial court provisionally appointed a public defender to represent Appellant and Appellant entered a plea of not guilty to the charge.

{¶3} Appellant appeared before the trial court on May 17, 2021, for a change of plea hearing. After the trial court conducted a Crim. R. 11 colloquy with Appellant, Appellant withdrew his former plea of not guilty and entered guilty plea to the charge and two of the forfeiture specifications, to wit: the vehicle and U.S. currency. The state moved to amend the indictment to remove the forfeiture specification relative to the real property. The trial court accepted Appellant's plea and found him guilty of the charge and the two forfeiture specifications. The state took no position on the issue of sentencing. The trial court deferred sentencing pending a pre-sentence investigation and report. The trial court issued a Judgment Entry Plea of Guilty on May 20, 2021.

¹ A statement of the Facts underlying Appellant's convictions is not necessary to our disposition of this appeal.

{¶4} On June 15, 2021, Appellant appeared before the trial court for sentencing. The trial court imposed an indefinite prison term of ten (10) to fifteen (15) years, with a mandatory minimum of ten (10) years. The trial court ordered Appellant to pay the costs of the prosecution plus a \$25.00 Public Defender's fee. Appellant was given 222 days jail time credit. The trial court memorialized Appellant's sentence via Judgment Entry on Sentencing filed June 18, 2021.

{¶5} On September 7, 2021, Appellant filed a motion to vacate pursuant to R.C. 2967.271, which the trial court summarily denied. Appellant filed motions for delayed appeals in November, 2021, and September, 2022, which this Court denied.

{¶6} Appellant filed a Motion for Withdrawal of Plea on March 10, 2023. Via Judgment Entry filed March 31, 2023, the trial court denied Appellant's motion. The trial court found the sentence imposed was within the range of sentences permitted by law and Appellant did not demonstrate he suffered a manifest injustice.

{¶7} It is from this judgment entry Appellant appeals, raising as his sole assignment of error:

THE TRIAL COURT ABUSED ITS DISCRETION WHEN IT DENIED
THE DEFENDANTS [SIC] WITHDRAWAL OF PLEA FOR MANIFEST
INJUSTICE.

{¶8} In his sole assignment of error, Appellant asserts the trial court abused its discretion in denying his motion to withdraw his guilty plea. Appellant submits he was promised he would receive a six (6) to nine (9) year sentence if he agreed to plead guilty

to the amended charge; therefore, a “bold-faced manifest injustice” occurred when the trial court imposed a sentence of ten (10) to fifteen (15) years. We disagree.

{¶9} A reviewing court will not disturb a trial court's decision whether to grant a motion to withdraw a plea absent an abuse of discretion. *State v. Caraballo* (1985), 17 Ohio St.3d 66, 477 N.E.2d 627. In order to find an abuse of discretion, we must determine the trial court's decision was unreasonable, arbitrary or unconscionable and not merely an error of law or judgment. *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 450 N.E.2d 1140.

{¶10} Crim. R. 32.1 governs the withdrawal of guilty pleas and provides:

A motion to withdraw a plea of guilty or no contest may be made only before sentence is imposed; but to correct manifest injustice the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw his or her plea. Crim. R. 32.1.

{¶11} A defendant who seeks to withdraw a plea of guilty after the imposition of sentence has the burden of establishing the existence of manifest injustice. *State v. Smith*, 49 Ohio St.2d 261, 361 N.E.2d 1324 (1977), paragraph one of the syllabus. A “manifest injustice” is a “clear or openly unjust act,” *State ex rel. Schneider v. Kreiner*, 83 Ohio St.3d 203, 208, 699 N.E.2d 83 (1998), “evidenced by an extraordinary and fundamental flaw in a plea proceeding.” *State v. Tekulve*, 1st Dist. Hamilton No. C–090783, 188 Ohio App.3d 792, 2010-Ohio-3604, 936 N.E.2d 1030, ¶ 7 (Citations omitted). The term “has been variously defined, but it is clear that under such standard, a post-

sentence withdrawal motion is allowable only in extraordinary cases.” *Smith*, supra at 264.

{¶12} During the change of plea hearing, the trial court conducted a Crim. R. 11 colloquy with Appellant. The trial court advised Appellant of the nature of the charge, the minimum and maximum penalties involved, the mandatory nature of the sentence, the post-release control requirements, and the fact Appellant was not eligible for community control or early presumptive release. The trial court also informed Appellant of the effects of a guilty plea and the rights he would be waiving as a result of his plea. Appellant confirmed his understanding of the trial court’s advisements.

{¶13} In addition, the following exchange occurred:

THE COURT: I also remind you that no one has the authority to make any promises on behalf of this court as to any sentence you might receive. Has anybody promised you anything at all about sentencing?

[APPELLANT]: No, Your Honor.

Transcript of May 17, 2021 Change of Plea Hearing at p. 9.

{¶14} The only reference to a six (6) to nine (9) year sentence was the recommendation of Attorney Zachuary Meranda, counsel for Appellant, during his opening statement at the sentencing hearing. Transcript of June 5, 2021 Sentencing at p.3. (“With regard to sentencing, Your Honor, I would ask the court to sentence him in a range of 6 to 9 years.”)

{¶15} Based upon the record in this matter, we find the trial court did not abuse its discretion by denying Appellant's motion to withdraw his guilty plea. Appellant has failed to demonstrate he was a victim of a manifest injustice.

{¶16} Appellant's sole assignment of error is overruled.

{¶17} The judgment of the Coshocton County Court of Common Pleas is affirmed.

By: Hoffman, P.J.

Wise, J. and

Baldwin, J. concur

