[Cite as *State v. Rehard*, 2026-Ohio-3276.]

IN THE OHIO COURT OF APPEALS
FIFTH APPELLATE DISTRICT
COSHOCTON COUNTY, OHIO

STATE OF OHIO Plaintiff - Appellee -vs- HUNTER REHARD Defendant - Appellant	Case No. 2025CA0027 Opinion And Judgment Entry Appeal from the Court of Common Pleas, Case No. 2025CR0002 Judgment: Affirmed Date of Judgment Entry: August 21, 2026

BEFORE: Andrew J. King; Robert G. Montgomery; Kevin W. Popham, Judges

APPEARANCES: CHRISHANA L. CARROLL, for Plaintiff-Appellee; GEORGE URBAN, for Defendant-Appellant.

King, P.J.

{¶ 1} Defendant-Appellant Hunter Rehard appeals the November 21, 2025 judgment of conviction and sentence of the Coshocton County Court of Common Pleas. Plaintiff-Appellee is the State of Ohio. We affirm the trial court.

Facts and Procedural History

{¶ 2} On February 13, 2025, the Coshocton County Grand Jury returned an indictment charging Rehard with one count of aggravated trafficking in drugs, a felony of the second degree. The charge arose when Rehard was intercepted by law enforcement as he transported more than 80 grams of methamphetamine from Columbus, Ohio to Coshocton, Ohio with the intent to resell the drugs.

{¶ 3} Following plea negotiations with the State, on September 2, 2025, Rehard opted to enter a plea of guilty in exchange for the State taking no position on completion of a presentence investigation, the continuation of bond, or sentencing. The trial court accepted Rehard's plea, ordered a presentence investigation, and set the matter over for sentencing.

{¶ 4} Rehard appeared for sentencing on November 14, 2025. Counsel for Rehard advocated for an indefinite term of four to six years of incarceration. Pursuant to the plea agreement, the State advanced no argument as to sentencing. After discussing the contents of the presentence investigation and noting that Rehard had recently received a minimum sentence for a similar offense, the trial court sentenced Rehard to an indefinite prison term of seven to ten and a half years.

{¶ 5} Rehard timely filed an appeal and the matter is now before this court for consideration. He raises one assignment of error as follows:

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{¶ 6} "REHARD WAS DENIED EFFECTIVE ASSISTANCE OF COUNSEL WHEN TRIAL COUNSEL FAILED TO MOVE TO WITHDRAW REHARD'S PLEA AFTER THE COURT IMPOSED A SUBSTANTIALLY GREATER SENTENCE THAN ANTICIPATED BY THE DEFENSE, THEREBY DEPRIVING REHARD OF THE OPPORTUNITY TO TIMELY PRESENT A MANIFEST INJUSTICE ARGUMENT."

{¶ 7} In his sole assignment of error Rehard argues his counsel rendered ineffective assistance when counsel failed to immediately move to withdraw Rehard's plea when the trial court imposed a greater sentence than that suggested by counsel. He argues that because

counsel did not immediately make the motion, he is now prejudiced by the passage of time in any apparent future attempt to withdraw is plea. We disagree.

Applicable Law

{¶ 8} Crim.R. 32.1 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."

{¶ 9} Although "a presentence motion to withdraw a guilty plea should be freely and liberally granted," a defendant is not afforded an "absolute right" to withdraw his or her plea before sentencing. *State v. Xie*, 62 Ohio St.3d 521, 527 (1992). "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 (1977). Although no precise definition of "manifest injustice" exists, in general, "manifest injustice relates to some fundamental flaw in the proceedings which result in a miscarriage of justice or is inconsistent with the demands of due process." *State v. Walsh*, 2015-Ohio-4135, ¶ 16 (5th Dist.), citing *State v. Wooden*, 2004-Ohio-588 (10th Dist.).

{¶ 10} To prevail on a claim of ineffective assistance of counsel, a defendant must demonstrate: (1) deficient performance by counsel, i.e., that counsel's performance fell below an objective standard of reasonable representation, and (2) that counsel's errors prejudiced the defendant, i.e., a reasonable probability that but for counsel's errors, the result of the proceeding would have been different. *Strickland v. Washington*, 466 U.S. 668, 687-688 (1984); *State v. Bradley*, 42 Ohio St.3d 136 (1989), paragraphs two and three of the syllabus. "Reasonable probability" is "probability sufficient to undermine confidence in the outcome."

Strickland at 694. Judicial scrutiny of a lawyer's performance must be highly deferential. *State v. Sallie*, 81 Ohio St.3d 673 (1998).

{¶ 11} A defendant receives ineffective assistance of counsel when his trial counsel "fails to act on his request to withdraw his plea when the possibility that he would have been allowed to withdraw his plea is not insubstantial." *State v. Strutton*, 62 Ohio App.3d 248, 252 (2d Dist.1988). Trial counsel is not ineffective when the defendant fails to set forth a "reasonable or legitimate basis for the withdrawal of his plea." *State v. Jones*, 1995 Ohio App. LEXIS 3463, *19 (8th Dist. 1995).

{¶ 12} Ineffective assistance of trial counsel can form the basis for a claim of manifest injustice to support withdrawal of a guilty plea pursuant to Crim.R. 32.1. See *State v. Dalton*, 2003-Ohio-3813, ¶ 18 (10th Dist.). However, under the "manifest injustice" standard, a post-sentence withdrawal motion is allowable only in extraordinary cases. *State v. Aleshire*, 2010-Ohio-2566 ¶ 60 (5th Dist.). Furthermore, ". . . if a plea of guilty could be retracted with ease after sentence, the accused might be encouraged to plead guilty to test the weight of potential punishment, and withdraw the plea if the sentence were unexpectedly severe. . ." *State v. Peterseim*, 68 Ohio App.2d 211, 213 (1980), quoting *Kadwell v. United States*, 315 F.2d 667 (C.A.9, 1963).

Analysis

{¶ 13} We first note that Rehard's argument is speculative. There is no evidence contained in the record that Rehard had any desire to withdraw his guilty plea and proceed to trial, nor does he make that argument here on appeal. Additionally, there was no jointly recommended sentence in this matter. Rather, counsel for Rehard argued for a minimum sentence and Rehard received a greater sentence than counsel requested.

{¶ 14} Further, the record reflects Rehard's understanding of the potential penalties. During his change-of-plea hearing Rehard indicated he understood the range of potential sentences, that he would receive a mandatory prison term, and further indicated that no one had promised him anything in regard to sentencing. Change of plea hearing at 4-8. Then, when imposing sentence, the trial court made its reasoning abundantly clear; Rehard had received a minimum sentence in the recent past for aggravated possession of drugs, a felony of the second degree, and demonstrated no evidence of rehabilitation as a result. Transcript of sentencing at 6-8. The trial court subsequently imposed a sentence within the statutory range for a second-degree felony and Rehard does not argue otherwise. Rehard's argument appears to be nothing more than a change of heart after receiving a longer sentence than he anticipated.

{¶ 15} That being the case, even if counsel had immediately moved to withdraw Rehard's plea, and even if we were to analyze the matter through the more liberal presentence lens, a defendant does not have an absolute right to withdraw a guilty plea. *State v. Barns*, 2022-Ohio-4486, ¶ 22; *State v. Sampsel*, 2022-Ohio-1809, ¶¶ 10, 16 (3d Dist.). In regard to a presentence motion to withdraw a guilty plea this court has held, "a change of heart or mistaken belief about pleading guilty is not a reasonable basis that requires a trial court to permit the defendant to withdraw his guilty plea." *State v. Davison,* 2008-Ohio-7037, ¶ 45 (5th Dist.). So too in regard to a post-sentence motion. *State v. Evans*, 2021-Ohio-829, ¶ 35 (5th Dist.) citing *State v. Meade*, 2018-Ohio-3544, ¶ 21 (4th Dist.) Rehard could not, therefore, demonstrate a manifest injustice as required under the post-sentence standard. We therefore reject Rehard's argument.

{¶ 16} Based on the record in this case, we find Rehard has failed to demonstrate the performance of his trial counsel was deficient or that he suffered prejudice as a result. Accordingly, the sole assignment of error is overruled.

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

By: King, P. J.

Montgomery, J. and

Popham, J. concur.