

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

STATE OF OHIO,	:	
	:	
Plaintiff-Appellee,	:	
	:	No. 115822
v.	:	
	:	
CARLTON ALLEN, JR.,	:	
	:	
Defendant-Appellant.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: September 17, 2026

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-24-693653-B

Appearances:

Michael C. O'Malley, Cuyahoga County Prosecuting
Attorney, and Morgan Austin, Assistant Prosecuting
Attorney, *for appellee*.

Joseph V. Pagano, *for appellant*.

EILEEN T. GALLAGHER, P.J.:

{¶ 1} Appellant Carlton Allen (“Allen”) appeals the judgment of the trial court denying his motion to withdraw his guilty plea.¹ He assigns two errors for our review:

1. The trial court abused its discretion in denying Appellant’s Presentence Motion to Withdraw his guilty plea in violation of Ohio Criminal Rule 32.1, appellant’s constitutional rights under the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, and Article I, Sections 10 and 16 of the Ohio Constitution.
2. The trial court erred by accepting Appellant’s guilty plea because it was not knowingly, intelligently, or voluntarily made.

{¶ 2} After careful review of the record and applicable law, we find that the trial court did not abuse its discretion in denying Allen’s motion to withdraw his guilty plea and that his plea was knowingly, intelligently, and voluntarily made. We overrule the assignments of error and affirm the judgment of the trial court.

I. Factual and Procedural History

{¶ 3} Allen was charged along with his brother in a 140-count indictment that included charges of aggravated robbery, drug trafficking, and engaging in a pattern of corrupt activity. The charges arose from a series of armed robberies of pharmacies.² Both Allen and his brother entered into plea agreements with the State; Allen pleaded guilty to 15 amended counts.

¹ We note that the record also refers to Allen throughout as Carlton Allen, Jr.

² The particular substantive facts of this matter are not relevant to the resolution of this appeal.

{¶ 4} The plea colloquy was conducted simultaneously with both defendants. The trial court asked whether either defendant was “under the influence of any medication, drugs or alcohol . . . that would impact [his] ability to understand [the] proceedings?” Allen answered, “No.” The court continued with the remainder of the plea colloquy, and Allen ultimately pleaded guilty to the amended charges. The court ordered a presentence investigation and mitigation-of-penalty report.

{¶ 5} Following his plea, but prior to sentencing, Allen filed a motion to withdraw his guilty plea. He argued that his plea was not freely and voluntarily made because he was under the influence of a “mind-altering narcotic.” He maintained that, as a result, he did not appreciate the quality of the evidence, his potential defenses, the trial rights that he was waiving, or the penalties that he faced.

{¶ 6} The State opposed Allen’s motion but acknowledged that Allen was entitled to a hearing on the motion. The court continued the sentencing hearing to appoint new counsel.

{¶ 7} Allen’s new counsel filed an additional motion to withdraw, asserting that Allen had a severe drug addiction that “impaired his ability to communicate effectively with counsel during the pendency of the case.” The motion further stated that Allen was under the influence of drugs at his plea hearing that impaired his cognitive abilities and capacity to make decisions.

{¶ 8} At the sentencing hearing, Allen’s counsel argued in support of the motion to withdraw, stating that Allen was “high” on Vicodin during times he was supposed to be reviewing evidence with his prior attorney. She further asserted that

Allen had taken Vicodin at the time of his plea, which had impaired his ability to understand the evidence, his rights, and the potential sentence; his impairment also prevented him from communicating with his attorney. Allen's counsel maintained that the motion to withdraw was not a result of a change of heart and noted that Allen had tested positive for drugs on multiple occasions during the pendency of the case.

{¶ 9} The State argued that there was no evidence presented that Allen was under the influence during the plea colloquy or any other proceedings and that Allen was specifically asked whether he was under the influence of any substance, which he denied. The State further asserted that Allen's family was present on the day of the plea hearing; they were part of discussions regarding whether Allen should accept the plea, yet none of those family members raised any concerns that Allen was impaired.

{¶ 10} The court denied the motion, noting that Allen had been specifically asked during the plea colloquy whether he was under the influence of any medications, drugs, or alcohol that would impact his understanding of the proceedings. The court further stated that Allen had appeared alert and oriented at the time of the plea. Allen's counsel objected to the denial.

{¶ 11} At the sentencing hearing, Allen's counsel renewed the objection to the denial of the motion. The court imposed an aggregate sentence of 18 years in prison, which was the minimum of the range in the plea agreement. After the sentence was announced, Allen submitted a letter to the court that further outlined the reasons he

had sought to withdraw his plea. The court accepted the letter, marked it as Court's exhibit No. 1, but did not revisit its ruling on the motion to withdraw or the sentence imposed.

{¶ 12} Allen then filed the instant appeal.³

II. Law and Analysis

{¶ 13} For ease of discussion, we will address Allen's assignments of error out of order.

{¶ 14} In his second assignment of error, Allen argues that his plea was not knowingly, intelligently, or voluntarily made because of his impaired mental state. He asserts that while he denied being under the influence during the plea colloquy, he made other statements that demonstrated he did not fully understand the proceedings. Allen further argues that the letter submitted to the court at his sentencing outlined how his prior counsel had pressured him into entering the plea and incorrectly advised him that he would receive a much lower sentence if he accepted the plea agreement.

{¶ 15} A guilty plea involves a waiver of constitutional rights; therefore, a defendant's decision to enter a plea must be knowing, intelligent, and voluntary. *State v. Jordan*, 2024-Ohio-2361, ¶ 19 (8th Dist.), citing *State v. Dangler*, 2020-Ohio-2765, ¶ 10, citing *Parke v. Raley*, 506 U.S. 20, 28-29 (1992). When a "plea is

³ Allen's codefendant brother, Carlton, also sought to withdraw his guilty plea, which was denied by the trial court. He appealed the denial in Appeal No. 115768, which was treated as a companion appeal to this matter.

not made knowingly, intelligently, and voluntarily, enforcement of that plea is unconstitutional.” *Dangler* at ¶ 10.

{¶ 16} Crim.R. 11 “outlines the procedures that trial courts are to follow when accepting pleas.” *Id.* at ¶ 11. The rule “ensures an adequate record on review by requiring the trial court to personally inform the defendant of his [or her] rights and the consequences of [the] plea and determine if the plea is understandingly and voluntarily made.” *Id.*, quoting *State v. Stone*, 43 Ohio St.2d 163, 168 (1975). As part of the Crim.R. 11 plea colloquy, the trial court must inform the defendant of the constitutional rights being waived by pleading guilty. These rights, which are set forth in Crim.R. 11(A)(2)(c), are “the right to a jury trial, the right to confront one’s accusers, the privilege against self-incrimination, the right to compulsory process to obtain witnesses, and the right to require the state to prove guilt beyond a reasonable doubt.” *Id.* at ¶ 14. When a court fails to adequately inform a defendant of these constitutional rights, it is presumed that the defendant did not enter the plea knowingly, intelligently, and voluntarily. *Id.*

{¶ 17} The Ohio Supreme Court has recently reiterated that “[t]he requirements in Crim.R. 11 serve as guardrails to ensure that a defendant’s guilty plea is entered into knowingly, intelligently, and voluntarily. But not every deviation from Crim.R. 11 warrants vacating the defendant’s plea.” *State v. Fontanez*, 2026-Ohio-3281, ¶ 49.⁴ In reviewing a trial court’s Crim.R. 11 colloquy to ensure that a

⁴ *Fontanez* affirmed this court’s en banc decision in *State v. Fontanez*, 2024-Ohio-1590 (8th Dist.).

defendant's plea is knowing, intelligent, and voluntary, appellate courts focus on "whether the dialogue between the court and the defendant demonstrates that the defendant understood the consequences of his [or her] plea." *Dangler* at ¶ 12, citing *State v. Veney*, 2008-Ohio-5200, ¶ 15-16. Criminal defendants asking an appellate court to reverse a conviction must show that an error occurred in the trial-court proceedings and that they were prejudiced by that error. *Dangler* at ¶ 13, citing *State v. Perry*, 2004-Ohio-297, ¶ 14-15; *State v. Stewart*, 51 Ohio St.2d 86, 92 (1977); Crim.R. 52.

{¶ 18} Appellate review of compliance with Crim.R. 11(C) is de novo and considers the totality of the circumstances to determine whether the plea hearing followed the rule. *State v. Foster*, 2024-Ohio-5919, ¶ 8 (8th Dist.), citing *State v. Cardwell*, 2009-Ohio-6827, ¶ 26 (8th Dist.). The appellate court reviews the following:

"(1) has the trial court complied with the relevant provision of the rule?
(2) if the court has not complied fully with the rule, is the purported failure of a type that excuses a defendant from the burden of demonstrating prejudice? and (3) if a showing of prejudice is required, has the defendant met that burden?"

State v. Ponomarenko, 2024-Ohio-4789, ¶ 15 (8th Dist.), quoting *Dangler*, 2020-Ohio-2765, at ¶ 17.

{¶ 19} There are two exceptions to the rule requiring a defendant to show prejudice. First, when a trial court fails to explain constitutional rights that a defendant waives by entering a guilty plea, there is a presumption that the plea was entered involuntarily and unknowingly, and a showing of prejudice is not required.

Dangler at ¶ 14, citing *State v. Clark*, 2008-Ohio-3748, ¶ 31, and *Veney* at syllabus. The second exception is a trial court's complete failure to comply with a portion of Crim.R. 11(C), in which case the defendant is not required to show prejudice. *Dangler* at ¶ 15, citing *State v. Sarkozy*, 2008-Ohio-509, ¶ 22.

{¶ 20} Allen does not argue that the trial court failed to comply with Crim.R. 11. "A trial court's adherence to Crim.R. 11 raises a presumption that a plea is voluntarily entered." *State v. Philpot*, 2022-Ohio-1499, ¶ 16 (8th Dist.). Allen cannot point to any evidence that would demonstrate that his plea was invalid, and only presented self-serving statements. "A defendant's own self-serving declarations or affidavits are insufficient to rebut a record that demonstrates that the plea was voluntary." *State v. McCargo*, 2026-Ohio-3115, ¶ 39 (8th Dist.), quoting *State v. Lett*, 2010-Ohio-4188, ¶ 33 (7th Dist.).

{¶ 21} In addition, we note that Allen did not assert at any time prior to his sentencing that he was pressured by his counsel to accept the plea agreement. He only raised this assertion in the letter submitted to the court after his sentence was imposed and in his appellate brief. Regardless, "[c]laims that counsel recommended the plea agreement and pressured the defendant to accept a plea bargain are of limited weight where the plea was knowingly and voluntarily made." *State v. Jordan*, 2026-Ohio-1562, ¶ 26 (8th Dist.), quoting *State v. Lawhorn*, 2009-Ohio-3216, ¶ 23 (6th Dist.).

{¶ 22} We find that Allen has not demonstrated that his guilty plea was not knowingly, intelligently, and voluntarily made. His second assignment of error is overruled.

{¶ 23} In his first assignment of error, Allen argues that the trial court abused its discretion in denying his presentence motion to withdraw his plea because (1) he presented a reasonable and legitimate basis for withdrawal, (2) the court failed to give full and fair consideration to the motion, (3) the denial of the motion prejudiced his substantial rights, and (4) the decision was contrary to the standard that a presentence motion should be “freely and liberally granted.”

{¶ 24} A presentence motion to withdraw a guilty plea pursuant to Crim.R. 32.1 should be “freely and liberally granted.” *State v. Xie*, 62 Ohio St.3d 521, 527 (1992). A defendant does not, however, have an absolute right to withdraw their plea, even if the motion is made prior to sentencing; the motion must demonstrate that the movant has “a reasonable and legitimate basis” for withdrawing the plea. *Id.* at paragraph one of the syllabus. Determining whether there is a reasonable and legitimate basis for the defendant’s request to withdraw his or her plea is within the sound discretion of the trial court and must be affirmed unless an abuse of discretion is identified. *State v. Barnes*, 2022-Ohio-4486, ¶ 13, citing *Xie* at paragraph two of the syllabus.

{¶ 25} Crim.R. 32.1, which provides for the withdrawal of a guilty plea, “gives no guidelines for a trial court to use when ruling on a presentence motion to withdraw a guilty plea.” *Xie* at 526. Likewise, the rule does not contain any factors

a court must consider when ruling upon a presentence motion to withdraw a guilty plea. *See* Crim.R. 32.1. To aid review, courts have identified nine nonexhaustive factors for evaluating a presentence motion to withdraw a guilty plea. *State v. Wilder*, 2025-Ohio-3075, ¶ 20 (8th Dist.). Those factors include whether (1) the defendant was represented by competent counsel, (2) the defendant was given a full Crim.R. 11 hearing before he entered his plea, (3) the defendant is given a complete hearing on the motion to withdraw, (4) the record reveals that the court gave full and fair consideration to the plea-withdrawal request, (5) the motion was made in a reasonable time, (6) the motion stated specific reasons for withdrawal, (7) the record shows that the defendant understood the nature of the charges and the possible penalties, (8) the defendant had evidence of a plausible defense, and (9) the State would be prejudiced by permitting the defendant to withdraw his guilty plea. *Wilder* at ¶ 20-21, citing *State v. Peterseim*, 68 Ohio App.2d 211 (8th Dist. 1980), paragraph three of the syllabus; *State v. Fish*, 104 Ohio App.3d 236 (1st Dist. 1995); *Barnes* at ¶ 32 (Brunner, J., concurring). Ultimately, it remains “within the sound discretion of the trial court to determine what circumstances justify granting such a motion.” *Xie* at 526, quoting *Barker v. United States*, 579 F.2d 1219, 1223 (10th Cir. 1978).

{¶ 26} Allen asserts that the trial court did not mention the above factors in reviewing his motion and could not rely just on the Crim.R. 11 plea colloquy. He argues that the presentence investigation and the mitigation-of-penalty report both reflected that he suffered from drug addiction. Moreover, he asserts that his criminal charges stemmed from his drug addiction and that he had tested positive

for drugs multiple times during the pendency of the case. He contends that the trial court “failed to adequately consider” his claim that he was impaired during the proceedings and maintains that the court should have taken evidence at the hearing on his motion.

{¶ 27} As noted above, the record reflects that Allen was given a full Crim.R. 11 hearing. During the plea colloquy, the court specifically asked Allen if he was under the influence of any medications, drugs, or alcohol that would affect his understanding of the proceedings. After Allen denied being under the influence and there was no evidence indicating otherwise, the court was not required to inquire further.

{¶ 28} The trial court properly conducted a hearing on Allen’s motion to withdraw. At the hearing, the trial court was required to give “full and fair consideration” of his motion. *State v. Hines*, 2020-Ohio-663, ¶ 8 (8th Dist.), quoting *Peterseim*, 68 Ohio App.2d at paragraph three of the syllabus. Allen’s motion did not contain any evidentiary support and was based solely on self-serving statements. At the hearing, Allen’s counsel reiterated the arguments in support of the motion to withdraw his plea but did not seek to present any evidence.

{¶ 29} Because the plea colloquy complied with Crim.R. 11, Allen possessed all the pertinent information at the plea hearing that he needed to enter a knowing, intelligent, and voluntary plea. Allen did not express any confusion, have any questions, or ask the trial court to clarify or further explain his rights, the waiver of those rights, the nature of the offenses, the effects of the plea, or the potential

penalties. Moreover, Allen was able to discuss the plea with counsel and his family; the record does not reflect that Allen's counsel or his family members raised concerns that Allen was impaired.

{¶ 30} We cannot find that the trial court did not give full and fair consideration to Allen's motion. The trial court did not abuse its discretion in denying Allen's motion to withdraw his guilty plea. The first assignment of error is overruled.

{¶ 31} The judgment of the trial court is affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution. The defendant's conviction having been affirmed, any bail pending appeal is terminated. Case remanded to the trial court for execution of sentence.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

EILEEN T. GALLAGHER, PRESIDING JUDGE

KATHLEEN ANN KEOUGH, J., and
DEENA R. CALABRESE, J., CONCUR