

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

STATE OF OHIO,	:	
Plaintiff-Appellee,	:	
v.	:	No. 115915
ANTONIO BAKER, JR.,	:	
Defendant-Appellant.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED

RELEASED AND JOURNALIZED: October 1, 2026

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case Nos. CR-24-690214-A, CR-24-695878-A, CR-24-695879-A,
CR-24-695880-A, CR-24-695881-A, CR-24-695882-A, CR-24-697578-A,
CR-24-697579-A, CR-25-698701-A, CR-25-699906-A, and CR-25-700017-A

Appearances:

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Eric Collins and Chad Cleveland, Assistant Prosecuting Attorneys, *for appellee*.

Moran & Fisher, Attorneys at Law, LLC, Susan J. Moran and Michael T. Fisher, *for appellant*.

EILEEN A. GALLAGHER, J.:

{¶ 1} Antonio Baker, Jr., (“Baker”) appeals the trial court’s denial of his pretrial motion to suppress and his oral presentence motion to withdraw his guilty plea. For the reasons that follow, we affirm.

Facts and Procedural History

{¶ 2} This case stems from Baker’s 11 felony cases in the trial court. Nine cases are related to a series of violent crimes that occurred between July 2023 and October 2023, when Baker was a minor, and the remaining two cases are related to two, separate incidents that occurred while Baker was in custody in the Cuyahoga County Juvenile Detention Center. The over 30 charges brought against Baker included multiple violent felony charges such as aggravated murder, murder, attempted murder, felonious assault, aggravated robbery and robbery involving several victims. Baker initially pled not guilty to all charges.

{¶ 3} Two attorneys were retained to represent Baker in Cuyahoga C.P. No. CR-24-690214, which included, amongst other violent felony offenses, the aggravated murder and murder charges and a third attorney (“third attorney”) was retained for the remaining ten felony cases.

{¶ 4} In CR-24-690214, Baker filed a motion to suppress evidence seized pursuant to an allegedly “defective search warrant.” The motion alleged there was lack of probable cause and false statements were made in the affidavit to obtain a search warrant. A hearing was held on the matter during which Baker called two detectives to testify regarding statements they made in their respective affidavits

supporting the request for the search warrant of Baker's phone. After the hearing, the court issued a ruling denying the motion.

{¶ 5} On the day of trial for CR-24-690214, Baker appeared to accept an all-or-nothing plea package offered by the State for all 11 cases. Baker agreed he would plead guilty to aggravated murder with a three-year firearm specification, attempted murder, involuntary manslaughter with a three-year firearm specification, three counts of felonious assault, four counts of aggravated robbery, assault, misdemeanor theft, discharge of a firearm on or near prohibited premises, harassment with a bodily substance, tampering with evidence and eight counts of having weapons while under disability.¹ In return, the State agreed to dismiss the remaining counts and recommend a life-in-prison sentence with parole eligibility after 31 years. The court asked Baker, twice, if it was his intention to plead guilty to those charges and Baker responded affirmatively each time.

{¶ 6} The court then engaged Baker in a Crim.R. 11 colloquy during which the court asked Baker if he understood what was happening. Baker responded, "Yes, Your Honor." No threats or promises were made to Baker to induce the change in his plea. Baker stated he understood that by entering a guilty plea he was waiving his rights as explained to him by the trial court. The trial court specifically asked:

THE COURT: And are you satisfied with the services of your lawyers ...?

THE DEFENDANT: Yes, Your Honor.

¹ Most counts to which Baker pled guilty were amended but some were as indicted.

{¶ 7} The court then thoroughly reviewed each charge/amended charge to which Baker was agreeing to plead guilty and made sure Baker understood the plea agreement and the maximum penalties for each charge.

THE COURT: All right. And you understand what you would be pleading to in this case?

THE DEFENDANT: Yes, Your Honor.

THE COURT: And that's what you agree to; is that correct?

THE DEFENDANT: Yes, Your Honor.

THE COURT: And is that what your understanding is?

THE DEFENDANT: Yes, Your Honor.

{¶ 8} The court explained that it was not bound by the agreed upon recommended sentence and Baker stated he understood. The court explained the sentence for all firearm specifications must run prior to, and consecutive with, the sentence for the underlying offenses, and Baker stated he understood. At the end of the colloquy, the trial court asked "You understand all of that, right?" to which Baker responded, "Yes, Your Honor."

{¶ 9} The trial court then stated on the record it was satisfied that Baker had been informed of his rights, the nature of the charges, the effect of the plea and the maximum penalties and that his plea would be made knowingly, intelligently and voluntarily. Baker then pled guilty to the charges stated above and the court dismissed all other charges.

{¶ 10} The trial court then referred Baker for a presentence investigation report. Sentencing was scheduled for November 12, 2024.

{¶ 11} On the day of sentencing, but prior to sentencing, Baker made an oral motion to the court to withdraw his guilty pleas.

{¶ 12} The trial court inquired as to the reason Baker wanted to withdraw his plea:

THE COURT: Okay. So Mr. Baker, what is the issue regarding why you wish to withdraw your plea?

THE DEFENDANT: I would like to withdraw the plea due to the fact Ms. — due to the fact that I've been missed as to the wrong stuff about taking the life sentence, and due to the fact that one of my lawyers told me I would never see daylight again.

THE COURT: All right. I'm sorry. So could you — I didn't hear the first part of what you said. You would like to withdraw your plea because what was the reason?

THE DEFENDANT: Miscommunication.

THE COURT: A miscommunication.

THE DEFENDANT: Yes.

THE COURT: All right. What was the miscommunication?

THE DEFENDANT: About me taking a plea of a life sentence.

THE COURT: Okay. What is the miscommunication?

THE DEFENDANT: That I know I came in your courtroom. I have ups and downs with my lawyers. But I tried to fire my lawyers multiple times and it did not go through. She told me that I'm a regular civilian and I will never see daylight again.

THE COURT: All right.

The court then conducted a hearing on the matter. The trial court mentioned that Baker had expressed issues with his third attorney at a prior pretrial but that they had had a chance to have additional communication and it was placed on the record

there were no longer any issues. When asked if he recalled that, Baker stated no. The trial court also noted that Baker did not say there were any issues with his counsel at the time of his plea. When asked if he remembered that, Baker also stated no. Baker stated the comment from his third attorney regarding him taking a life sentence was made at his last court date, prior to the plea hearing. When asked if Baker had raised the issue at the plea hearing that he was not getting along with this attorney prior to taking his plea, Baker stated no.

{¶ 13} Baker informed the trial court that he had sent in two written requests via mail to withdraw his plea prior to the sentencing hearing and that his mother sent a letter in as well. The court responded that it had not received anything and there was nothing on any of the dockets for his 11 cases to reflect that it had.

{¶ 14} The trial court also noted that nowhere in the presentence investigation report was there any indication that Baker had any issue with his plea.

{¶ 15} After considering Baker's request and the relevant factors, and allowing both Baker's counsel and counsel for the State to make statements, the trial court denied the oral motion finding Baker was merely demonstrating a "change of heart," which was "not sufficient grounds to allow the withdraw [sic] of the guilty plea even in a presentence motion to withdraw the plea."

{¶ 16} The trial court then proceeded to sentencing. The court heard many witnesses, including Baker's mother, who stated that Baker had attempted to send two written motions to the court, through the mail, to withdraw his plea and that she personally hand-delivered the letter to the court's mailbox. The court repeated

it had not received anything from Baker or his mother. We note that the docket for CR-24-695878 does reflect that a handwritten motion to withdraw was filed by Baker two days after sentencing. The motion states: “Defendant moves this court to please withdraw plea” and cites R.C. 5924.45. The motion does not state any specific reasons or arguments as to why Baker is requesting to withdraw his plea nor does it have the date it was written or mailed on it.

{¶ 17} The court sentenced Baker pursuant to the recommended sentence of life in prison with parole eligibility after 31 years and stated: “This sentence shall include all of the Defendant’s cases including cases CR-690214, CR-695878, CR-695879, CR-695881, CR-695800, CR-695882, CR-697578, CR-697579, CR-698701, CR-699906, CR-700017. This sentence is the total aggregate prison sentence for all of the Defendant’s cases.”

{¶ 18} Baker filed this appeal raising the following two assignments of error for our review:

Assignment of Error No. 1

The trial court erred when it denied Antonio Baker’s Motion to Suppress because the affidavit in support of the search warrant lacked probable cause and the particularity necessary to justify the search, in violation of Antonio Baker’s federal and state constitutional rights.

Assignment of Error No. 2

The trial court erred, depriving Antonio Baker of Due Process of law as guaranteed by the Fourteenth Amendment to the United States Constitution and Art. 1, Section 10 of the Ohio Constitution, by denying appellant’s pre-sentence motion to withdraw his guilty plea.

Law and Analysis

{¶ 19} We discuss Baker’s second assignment of error first as it is determinative of his first assignment of error.

Assignment of Error No. 2 – Presentence Motion to Withdraw Guilty Plea

{¶ 20} In his second assignment of error, Baker alleges the trial court erred by denying his presentence motion to withdraw his guilty plea.

{¶ 21} “[A] presentence motion to withdraw a guilty plea should be freely and liberally granted, and there is a presumption in favor of permitting a presentence plea withdrawal.” *State v. Robinson*, 2025-Ohio-5343, ¶ 13 (8th Dist.). “This is the presumption from which all other considerations must start.” *State v. Barnes*, 2022-Ohio-4486, ¶ 21. That being said, a defendant does not have an absolute right to withdraw his guilty plea. *Id.* at ¶ 22.

{¶ 22} “A trial court must conduct a hearing to determine whether there is ‘a reasonable and legitimate basis’ for withdrawing the plea, and the decision to grant or deny the motion ‘is within the sound discretion of the trial court.’” *Robinson* at ¶ 13, quoting *State v. Xie*, 62 Ohio St.3d 521, paragraph one and two of the syllabus (1992). “Absent an abuse of discretion, the trial court’s decision must be affirmed.” *Robinson* at ¶ 13.

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.

Robinson at ¶ 14. Consideration of these factors is a balancing test and no one factor is conclusive. *Id.* at ¶ 16. 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). An abuse of discretion occurs when a court exercises its judgment in an unwarranted way regarding a matter over which it has discretionary authority. *Johnson v. Abdullah*, 2021-Ohio-3304, ¶ 35. “Absent an abuse of discretion, the trial court’s decision must be affirmed.” *State v. Hopkins*, 2023-Ohio-4311, ¶ 12 (8th Dist.).

{¶ 23} We now turn to the nine factors. For the first factor, the trial court found that “all three of defendant’s counsel are highly competent counsel.” On appeal, Baker argues he had expressed issues with his counsel, specifically his third attorney for the ten felony cases, in that she was not showing him all the evidence produced in discovery and she was not available to him. However, during his plea hearing when asked if he was “satisfied with the services of [his] lawyers,” Baker responded, “Yes, Your Honor.” Further, the trial court acknowledged that Baker

expressed issues with this attorney regarding reviewing discovery, but after two pretrials where this issue was discussed, Baker stated on the record the issues were resolved. There is no evidence that Baker's attorneys were incompetent. This factor supports the trial court's denial.

{¶ 24} For the second factor, the trial court found that "the defendant was afforded a full hearing pursuant to Criminal Rule 11 before he entered the plea." Our review of the transcript reveals that to be the case and Baker does not dispute this in his brief. This factor supports the trial court's denial.

{¶ 25} The third and fourth factors concern whether the trial court gave a complete hearing on the motion to withdraw and whether the record reveals the court gave it full and fair consideration. Baker argues on appeal he was not given a full hearing on his motion and the court did not give it full and fair consideration. The basis of his argument is that Baker and his mother told the trial court they had submitted written letters requesting to withdraw his plea and this should have been further investigated. Baker makes no argument as to why the hearing that the trial court did conduct on the motion to withdraw would not have constituted a complete hearing on the motion. The court listened to Baker, his attorneys and the State. We find the trial court gave Baker a complete hearing on the motion. Similarly, we find the record demonstrates that the trial court gave the motion full and fair consideration. The court heard Baker's arguments and considered the relevant factors before denying the motion, giving it full and fair consideration. Both of these factors support the trial court's denial.

{¶ 26} The fifth factor concerns whether the motion was made within a reasonable time. The oral motion was made the day of sentencing, 23 days after his plea hearing, which is when Baker indicated that one of his attorneys made the statement that formed the basis of his reasoning for wanting to withdraw his plea. “[S]ome courts have found that ‘a motion to withdraw a guilty plea made on the day of the sentencing hearing is not made at a reasonable time.’” *Robinson*, 2025-Ohio-5343, at ¶ 16, quoting *State v. Estep*, 2024-Ohio-58, ¶ 30 (4th Dist.).

{¶ 27} Baker stated on the record, and he argues in his brief, that he had sent two handwritten motions to withdraw his plea to the court and that he had his mother deliver the same motion to the court’s mailbox, all prior to the sentencing hearing. The court indicated it did not receive any handwritten motions. As stated above, the docket for CR-24-695878 does indicate a motion to withdraw plea was filed on November 14, 2025, two days after sentencing. A review of said motion reveals it does not indicate when it was written or mailed.

{¶ 28} The sixth factor concerns whether the motion stated specific reasons for withdrawal of a plea. Baker stated his reasons concerned a statement allegedly made at the plea hearing by one of his attorneys about him not seeing the light of day and then said there were “miscommunications” between him and his counsel regarding him pleading to a life sentence. Whether this is a legitimate reason that would legally justify the withdrawal of a guilty plea, such as actual confusion about what he pled guilty to, is a separate issue we do not reach here. *See State v. Hines*, 2020-Ohio-663, ¶ 18 (8th Dist.) (defendant’s request to withdraw his guilty plea was

based on his confusion and lack of understanding as to his plea); *Barnes*, 2022-Ohio-4486, at ¶ 24 (Defendant's discovery of evidence that would have affected his decision to plead guilty serves as a reasonable and legitimate basis to withdraw a guilty plea before sentencing.). The factor only requires that Baker stated specific reasons for withdrawal (not that they be reasonable and legitimate) and we find Baker stated specific reasons for his withdrawal request. This factor weighs in his favor.

{¶ 29} The seventh factor concerns whether the record shows that Baker understood the nature of the charges and the possible penalties. Baker makes no argument in support of this factor. We find, upon review of the record, that the trial court painstakingly reviewed the nature of the charges and possible penalties with Baker for each and every charge (of which there were over 30). The trial court even asked the attorneys to calculate the total possible penalties for all charges, which was over 100 years. Each time the trial court asked if Baker understood what was said to him, Baker responded that he did. At no point did Baker indicate that he did not understand the nature of the charges or possible penalties. This factor weighs in favor of the trial court's denial.

{¶ 30} The eighth factor concerns whether Baker had any evidence of a plausible defense. Baker makes no arguments in support of this factor. The State argues that Baker indicated in a jail phone call to a female after the plea hearing that the State had his phone, which was all they needed to convict him and thereby knew he had no evidence of a plausible defense. Baker, on appeal, and during his hearing

on the motion to withdraw, presented no arguments or evidence of any plausible defense to any of the numerous charges. This factor weighs in favor of the trial court's denial.

{¶ 31} The ninth and final factor concerns whether the State would be prejudiced by permitting Baker to withdraw his guilty plea. Baker suggests that the State did not argue it would be prejudiced during the plea withdrawal hearing. The State argues on appeal that it would have been prejudiced by the plea change because it would then have had to prepare and try 11 separate cases requiring significant additional time, effort and resources. Further, it argues the later trial dates would affect witnesses' memories, perceptions and availability. The trial court did not appear to consider this factor, but we concede there would be at least some prejudice to the State for this last-minute plea change. This factor, though slight, weighs in favor of the trial court's denial.

{¶ 32} After reviewing and balancing the factors based on the facts of this case, we find the trial court did not abuse its discretion when it denied Baker's oral motion to withdraw his guilty plea on the day of sentencing. It is within the trial court's discretion to determine whether Baker's arguments in support of his motion were reasonable and legitimate and an appellate panel must defer to the trial court's judgment in evaluating the "good faith, credibility and weight" of a defendant's motivation and assertions in entering and attempting to withdraw his plea. *State v. Shaw*, 2016-Ohio-923, ¶ 12 (8th Dist.).

{¶ 33} Baker's second assignment of error is overruled.

Assignment of Error No. 1 – Motion to Suppress

{¶ 34} In his first assignment of error, Baker alleges that the trial court erred when it denied the motion to suppress he filed regarding his cell phone in CR-24-690214 in which he was charged with aggravated murder.

{¶ 35} Baker concedes in his brief that “this Court has previously held that defendants who have pled guilty to aggravated murder and subsequently sought to appeal pretrial rulings, such as the denial of a motion to suppress, have waived such arguments.” *State v. Bruister*, 2013-Ohio-1445, ¶ 7 (8th Dist.). This is a correct statement of law from *Bruister*. When a defendant enters a guilty plea as part of a plea bargain, he waives all appealable errors, unless the errors are shown to have precluded him from entering a knowing and voluntary plea and this waiver includes motions to suppress. *Id.* at ¶ 5. This is consistent with other Ohio courts. *Id.* at ¶ 8.

{¶ 36} Baker argues that this waiver does not apply to him because the court did not inform him he was waiving the right to appeal the ruling on the motion to suppress and that if his guilty plea is withdrawn then this issue was not waived. This second argument is moot given our finding the trial court did not err in denying Baker’s motion to withdraw his guilty plea to aggravated murder.

{¶ 37} This court’s case law as stated in *Brusiter* also determines Baker’s first argument because “where a trial court carries out the mandates of Crim.R. 11(C)(2), no prejudice accrues to the appellant where the court fails to inform him of the effect of his plea on pretrial motions.” *Id.* at ¶ 7. Here, while the trial court did not specifically inform him of the effect of his plea on pretrial motions, the trial court

did carry out the mandates of Crim.R. 11(C)(2). The trial court was under no obligation to inform him of the effect of his plea on pretrial motions and Baker was not prejudiced here by not being informed of said waiver. *Id.*

{¶ 38} As such, Baker's first assignment of error is overruled.

{¶ 39} Judgment 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 convictions having been affirmed, any bail pending appeal is terminated.

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

EILEEN A. GALLAGHER, JUDGE

MICHELLE J. SHEEHAN, A.J., and
SEAN C. GALLAGHER, J., CONCUR