[Cite as *Parma v. Thompson*, 2026-Ohio-4281.]

COURT OF APPEALS OF OHIO

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

CITY OF PARMA, :

Plaintiff-Appellee, :

Nos. 116008

v. :

ANDRE DEMETRIUS THOMPSON, :

Defendant-Appellant. :

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: October 29, 2026

Criminal Appeal from the Parma Municipal Court
Case No. 00CRB00483

Appearances:

Scott M. Tuma, Parma Chief Prosecutor, and Brian R. Radigan, Assistant Prosecuting Attorney, *for appellee*.

Andre D. Thompson, *pro se*.

MARY J. BOYLE, P.J.:

{¶ 1} Defendant-appellant Andre Demetrius Thompson ("Thompson"), pro se, appeals the Parma Municipal Court's denial of his post-sentence motion to

withdraw his plea.[1] He raises the following assignment of error for review:

> The trial court abused its discretion by summarily denying [Thompson's] Crim. R. 32.1 post-sentence motions without meaningful consideration of operative facts not conclusively refuted by the existing record.

{¶ 2} For the reasons set forth below, we affirm.

I. Facts and Procedural History

{¶ 3} In May 2000, Thompson pled no contest to domestic violence in Parma M.C. No. 00CRB00483.[2] Thompson was represented by counsel at the time of his plea. In June 2000, Thompson was sentenced to 30 days in jail, with 27 days suspended, and 18 months of probation, with an order to complete anger management counseling. The court also ordered Thompson to pay a fine of $500 with $100 suspended.

{¶ 4} While Thompson did not file a direct appeal from his 2000 conviction, 20 years later in 2020, Thompson filed a pro se post-sentence motion to withdraw his plea, arguing that his plea was not knowingly, intelligently, and voluntarily made. The City of Parma ("City") did not file a response, and the trial court denied the motion. Nearly six months later, Thompson filed a pro se motion

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[1] While Thompson calls it a motion to vacate, he brought his motion pursuant to Crim.R. 32.1, which governs motions to withdraw pleas. Therefore, we will construe his motion as a motion to withdraw his plea and refer to it as such.

[2] Thompson initially appealed from the following two cases in Parma Municipal Court: Parma M.C. No. 00CRB00483 (*Parma v. Thompson*, 8th Dist. Cuyahoga No. 116008) and Parma M.C. No. 00CRB03432 (*Parma v. Thompson*, 8th Dist. Cuyahoga No. 116009). We granted Thompson's request to consolidate the two appeals. However, on September 4, 2026, we dismissed appeal No. 116009 for lack of final, appealable order. As a result, we review Thompson's arguments related to Parma M.C. No. 00CRB00483.

to appeal the denial of his motion to withdraw. Our review of the record reflects that the trial court did not issue a ruling on this motion.[3]

{¶ 5} More than five years later, on November 18, 2025, Thompson filed another pro se post-sentence motion to withdraw his plea for the lack of a fully knowing, intelligent, and voluntary plea. Thompson argued that because there is no plea or sentencing transcripts, colloquy, recording, or written waiver in the record, the record failed to establish the plea was valid under Crim.R. 11. The court denied the motion, stating: "[Thompson's] motion to vacate conviction is hereby denied." On the same day, Thompson filed a supplement to his motion, raising several arguments as to why he was entitled to withdraw his plea. Thompson contended that the subpoenas were improperly served; his plea was not knowingly, intelligently, and voluntarily made; the record was incomplete; his counsel was ineffective; and he was not accurately informed about the weakness of the City's case.

{¶ 6} Then, on December 10, 2025, Thompson moved for reconsideration of the trial court's denial of his second pro se motion to withdraw his plea. This motion focused on a docket entry dated November 20, 2025, reflecting "Journal DOMES COMP AMENDED created in Book 1044 Page 155." Thompson alleged this entry amended the underlying journal entry issued in 2000. As a result, he contended that the record was defective and constituted new evidence that should

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[3] We note that if a motion is not expressly decided by the trial court when the case has concluded, the motion is presumed to have been denied. *Kostelnik v. Helper*, 2002-Ohio-2985, ¶ 13.

have been considered before the trial court ruled on his motion to withdraw. Also on December 10, 2025, Thompson filed a motion to clarify the November 20, 2025 journal entry. Our review of the record reveals the trial court did not rule on these December 2025 motions prior to the filing of Thompson's appeal of his second post-sentence motion to withdraw his plea and thus are presumed denied.

{¶ 7} Thompson now appeals, raising a single assignment of error.

II. Law and Analysis

{¶ 8} On appeal, Thompson challenges the denial of his second post-sentence motion to withdraw his plea filed on November 18, 2025, arguing the trial court abused its discretion when it denied his motion without explanation. Thompson further argues that the denial of his motion to clarify the November 20, 2025 journal entry was improper.

{¶ 9} Crim.R. 32.1 governs the withdrawal of guilty and no-contest pleas and provides that "[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." The defendant seeking to withdraw a guilty or no-contest plea after sentencing bears the burden of demonstrating "manifest injustice." *State v. Smith*, 49 Ohio St.2d 261 (1977), paragraph one of the syllabus. "Manifest injustice" has been described as a "clear or openly unjust act," *State ex rel. Schneider v. Kreiner*, 83 Ohio St.3d 203, 208 (1998), that is evidenced by "an extraordinary and fundamental flaw in the plea proceeding." *State v. Hamilton*, 2008-Ohio-455,

¶ 8 (8th Dist.), citing *State v. Lintner*, 2001-Ohio-3360 (7th Dist.), and *State v. Wheeler*, 2002-Ohio-284 (2d Dist.). As a result, a post-sentence withdrawal of a guilty or no-contest plea is permitted "only in extraordinary cases." *State v. Rodriguez*, 2016-Ohio-5239, ¶ 22 (8th Dist.), citing *Smith* at 264.

{¶ 10} Appellate review of a trial court's decision denying a post-sentence motion to withdraw a plea is limited to whether the trial court abused its discretion. *State v. Romero,* 2019-Ohio-1839, ¶ 13. An abuse of discretion occurs when a court exercises "its judgment, in an unwarranted way, in regard to a matter over which it has discretionary authority." *Johnson v. Abdullah*, 2021-Ohio-3304, ¶ 35.

{¶ 11} As previously noted, while Thompson did not file a direct appeal, he did file a previous motion to withdraw his plea in 2020.[4] Thompson raises the same arguments in the motion at issue here. However, the trial court did not indicate it was applying res judicata in denying the 2025 motion to withdraw, and the City has not presented the issue of res judicata on appeal. Therefore, we decline to further discuss the doctrine of res judicata pursuant to the principle of party presentation. *See Shaker Hts. v. Thompson*, 2026-Ohio-1871, ¶ 39, fn. 4 (8th Dist.), citing *Snyder v. Old World Classics, L.L.C.*, 2025-Ohio-1875, ¶ 4.

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[4] "[G]enerally, res judicata bars a defendant from raising claims in a Crim.R. 32.1 post-sentencing motion to withdraw a guilty plea that he raised or could have raised on direct appeal." *State v. Straley*, 2019-Ohio-5206, ¶ 15, citing *State v. Ketterer*, 2010-Ohio-3831, ¶ 59. Likewise, res judicata generally "acts to bar raising issues in a successive Crim.R. 32.1 motion to withdraw a plea of guilty where those issues could have been raised in the prior Crim.R. 32.1 motion." (Cleaned up.) *State v. McGraw*, 2022-Ohio-1321, ¶ 6 (8th Dist.).

{¶ 12} Thompson first argues that the trial court abused its discretion by denying his motion without providing its reasoning or referencing the specific allegations Thompson raised. Thompson fails to recognize, however, that Crim.R. 32.1 does not impose any duty on the trial court to provide substantive rationale for its decision to deny a motion to withdraw a plea. *See State v. Williams*, 2016-Ohio-4905, ¶ 14 (6th Dist.) (noting that while a written explanation of the court's reason for denying a motion to withdraw a plea is helpful, "it is not necessary or required by law"). Here, Thompson has not identified any evidence demonstrating that a manifest injustice occurred in the acceptance of his plea, other than referencing the language used by the trial court in its journal entry denying his motion. The trial court was not required to issue an explanation, and thus we decline to find that its denial was an abuse of discretion.

{¶ 13} Thompson further argues that the trial court abused its discretion in denying his motion to withdraw because there was no transcript of the proceedings. We note that, despite Thompson's argument otherwise, there is a presumption of regularity that attaches to all judicial proceedings where the record of the underlying trial court proceedings is unavailable. *State v. Raber*, 2012-Ohio-5636, ¶ 19. Moreover, the presumption of regularity applies "[i]n the absence of evidence demonstrating a defect in the plea process[.]" *Olmsted Twp. v. Campanalie*, 2025-Ohio-5851, ¶ 19 (8th Dist.).

{¶ 14} In this case, Thompson waited over 20 years to withdraw his plea. The record, transcripts, and audio recording were not required to be kept

beyond the period prescribed by law pursuant to Sup.R. 11.33. We have previously found that "after the transcript of proceedings becomes unavailable through time and as permitted [by law], the defendant is considered to be at fault for the lack of a record." *State v. Hunt*, 2019-Ohio-1982, ¶ 3 (8th Dist.). App.R. 9(C) provides that if a transcript is unavailable, "the appellant may prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection." Thompson failed to submit a proposed App.R. 9(C) statement. Because Thompson failed to preserve the record and presents no evidence of the invalidity of his plea to rebut the presumption, we are required to presume regularity and that the court complied with Crim.R. 11.

{¶ 15} Thompson's next argument that the trial court's purported amended journal entry of November 20, 2025, diminished the integrity of the record is unpersuasive. Based on our review of the record, this was not an amended journal entry — it appears to be the judgment entry issued following Thompson's probation violation hearing in March 2001. This entry has no impact on the validity of his plea from 25 years ago, nor the propriety of the denial of his motion to withdraw his plea.

{¶ 16} Thus, based on the foregoing, Thompson has failed to establish that a manifest injustice occurred, and the trial court did not abuse its discretion when it denied Thompson's second post-sentence motion to withdraw his plea. Thompson has failed to demonstrate this was an "extraordinary case" where the post-sentence withdrawal of a guilty plea is permitted.

{¶ 17} Accordingly, Thompson's sole assignment of error is overruled.

{¶ 18} Therefore, judgment 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 be sent to said court to carry this judgment into execution.

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

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MARY J. BOYLE, PRESIDING JUDGE

ANITA LASTER MAYS, J., and
TIMOTHY W. CLARY, J., CONCUR