[Cite as *State v. Saher*, 2026-Ohio-4478.]

COURT OF APPEALS OF OHIO

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

STATE OF OHIO,	:	
Plaintiff-Appellee,	:	No. 116043
v.	:	
AHMAD SAHER,	:	
Defendant-Appellant.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: November 12, 2026

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-25-701703-A

Appearances:

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

Law Offices of William B. Norman and William B. Norman, *for appellant*.

ANITA LASTER MAYS, J.:

{¶ 1} Defendant-appellant Ahmad Saher ("Saher") appeals from the judgment of the Cuyahoga County Court of Common Pleas denying his postsentence motion to withdraw his no contest plea, which was based on his claim

that he was denied the effective assistance of trial counsel in connection with advice he received about the immigration consequences of his conviction. Saher raises one assignment of error for this court's review. For the reasons that follow, this court affirms.

I. Facts and Procedural History

{¶ 2} A Cuyahoga County Grand Jury indicted Saher on one count of failure to comply with an order or signal of a police officer in violation of R.C. 2921.331(B), a felony of the third degree. Saher retained trial counsel to represent him on that charge; counsel also represented him on related traffic charges filed in the Rocky River Municipal Court arising from the same incident. Tr. 32, 40-41.

{¶ 3} Saher pleaded no contest to the single count of the indictment. At the plea and sentencing hearing, Saher told the trial court that he was a third-year finance student at Cleveland State University and that he worked as a car salesman and detailer and as a phone salesman. Tr. 3-5. He stated that he was born in the United Arab Emirates and that he had been in this country for five years. Tr. 5. Saher stated that no one had threatened or coerced him and that he was satisfied with his attorney's services. Tr. 7. Because Saher was not a citizen, the trial court gave the statutory advisement regarding the immigration consequences of a plea and the court referred on the record to an off-the-record discussion concerning Saher's consultation with an immigration attorney. Tr. 8. The trial court advised Saher of the rights he was giving up and of the possible penalties, and both parties expressed satisfaction with the Crim.R. 11 colloquy. Tr. 9-13. The State recited the

facts, which included that Saher rode a motorcycle away from a traffic stop initiated by North Olmsted police, that he reached a speed in excess of 100 m.p.h., and that the pursuing officer terminated the chase. Tr. 14-15. The trial court found Saher guilty. Tr. 15. Before sentence was imposed, Saher stated that what he did "was foolish" and "it was also selfish" and that he "disregarded my own safety and I disregarded the people around me." Tr. 19. The trial court imposed one year of community-control sanctions and four days in jail, structured as two weekends at Saher's stated preference. Tr. 17, 20-21. The journal entry memorializing the plea and sentence was signed September 22, 2025. Tr. 28.

{¶ 4} Saher thereafter moved to withdraw his no contest plea. He subsequently moved to strike that filing and to substitute a revised motion. The State opposed the motion to withdraw and separately moved for sanctions concerning the filings submitted by Saher's counsel. The trial court set the matter for hearing.

{¶ 5} The hearing was held on January 7, 2026. Saher appeared by Zoom with the trial court's consent and without objection by the State and advised the court that Saher was then held at the Northeast Ohio Correctional Center in Youngstown as an ICE detainee. Tr. 4-5. The trial court admitted as court's exhibit the transcript of the plea hearing and a copy of the journal entry from the plea. Tr. 5, 28-29. The court first heard argument on the State's motion for sanctions, offered Saher's trial counsel the opportunity to continue the matter to obtain

counsel, which he declined, and then denied the motion for sanctions. Tr. 14-15, 25-27.

{¶ 6} The trial court then took up the motion to withdraw the plea. Saher orally waived the attorney-client privilege as to trial counsel and, upon further inquiry by the court, as to the immigration attorneys he had consulted. Tr. 30, 35-36. Saher called two witnesses: trial counsel and himself. Tr. 29, 49.

{¶ 7} Trial counsel testified that he had practiced law for 50 years, primarily in criminal and traffic matters. Tr. 31. He testified that Saher's case was a third-degree felony failure to comply involving a police chase in which Saher was driving a motorcycle. Tr. 32. Counsel testified that he was aware Saher was not a citizen and that his recollection, based on a document in his file, was that Saher "was here on a valid work visa." Tr. 32-33.

{¶ 8} He testified that Saher "was very concerned about the consequences, not only of the criminal sentence but whether it would have deportation consequences," and that both of them "looked into the potential consequences very seriously." Tr. 33. Counsel testified that he gave Saher a newspaper article about immigration enforcement; that he had his legal intern research the issue and that the research indicated "there could be some problems with, actually, with a felony plea, even problems with the traffic cases in Rocky River Municipal Court," and that he consulted two criminal practitioners who told him that deportation could be a problem even with a probationary sentence. Tr. 33-34. Counsel testified that he referred Saher to several immigration lawyers. Tr. 34.

{¶ 9} Counsel testified that Saher arranged a 30-minute paid consultation with an immigration lawyer and telephoned him while he was driving home so that counsel could participate in a three-way call. Tr. 34-35.

{¶ 10} Counsel testified that both he and Saher gave the immigration lawyer information about the case and that he primarily supplied the background. Tr. 37. On cross-examination, he agreed that he had given the immigration lawyer everything he thought was relevant about the case. Tr. 45. He testified that his impression from the call was that because Saher was on a legal work visa, had no criminal record, and was likely to receive a nonprison sanction, "there was discretion involved and that he, quote/unquote, should be okay," and that "[t]here were no guarantees." Tr. 37. Asked what Saher would have understood at the time of the plea, counsel testified, "I would have thought he knew he was still at risk" and that he "was at risk, but probably not likely that he would be detained and deported." Tr. 38. Counsel testified that the subject "wasn't, you know, a primary concern" and that "at the time, our focus was, could he avoid prison?" Tr. 38-39. He further testified that "the facts of this case were not conducive to going to trial," that a trial "would have, you know, not been anything other than a delay, in my opinion, a delay tactic," and that "[t]here was evidence to convict him, and we discussed that." Tr. 39.

{¶ 11} On cross-examination, counsel testified that the related North Olmsted charges filed in Rocky River were resolved by a plea to a speeding charge with the remaining counts nolled and a fine of $150 and costs. Tr. 41. He testified

that the pursuing officer identified Saher by returning to the gas station and obtaining surveillance video and the motorcycle's plate number. Tr. 42. Counsel testified that he advised Saher that going to trial would be futile, that the only defense was "[y]ou never know if witnesses don't show," and that Saher "was aware of that." Tr. 42-43. He testified that he met with the prosecutor's office in an effort to obtain a reduction and was told that the office's policy on such cases was no reduction. Tr. 43. He testified that he did his best on the case and that he did not consider his representation ineffective. Tr. 44. He testified that the immigration attorney told Saher that there could be immigration consequences but "downplayed the severity" based on what he knew. Tr. 45. He also testified that his intern's research showed that even a traffic ticket could carry immigration consequences. Tr. 45.

{¶ 12} On redirect-examination, counsel testified that his legal intern reviewed 8 U.S.C. 1227 and gave him information but that he did not know that he had personally reviewed the statute. Tr. 46. When read the language of 8 U.S.C. 1227(a)(2)(A)(i), counsel testified that this was why he needed an immigration expert, because "my common sense, which turned out wrong, was that a failure to comply doesn't involve moral turpitude." Tr. 47. He testified that he had not reviewed case law holding that failure to comply is a crime involving moral turpitude, and he agreed that, relying on the immigration attorney phone call, he went into the plea believing "not that this conviction makes him deportable, but that we got no guarantees that he is not deportable." Tr. 47. On recross-

examination, counsel testified that he could not specifically recall whether they asked the immigration attorney whether this offense was a crime of moral turpitude. Tr. 48.

{¶ 13} Saher testified that he was 22 years old, that he was born in Dubai, and that he first came to the United States in "either 2019 or 2020," when he was 17, together with his parents. Tr. 49-50. He testified that he did not fully know his immigration status upon arrival and that he was on whatever status his parents had. Tr. 50. Asked whether he knew the case might interfere with his immigration status, Saher testified, "Not necessarily, no," and, when asked to explain, Saher stated, "Possibly might, might not." Tr. 51. He testified that he spoke with counsel about immigration, that counsel recommended that he contact an immigration attorney, and that he had a call with an immigration attorney. Tr. 51-52. Saher testified that on that call no one told him that he would be deported if he pleaded no contest to failure to comply and that no one told him that the offense was a crime of moral turpitude. Tr. 52. He testified that when the call ended he did not think that a consequence of conviction would be that he would be deportable and that he thought "there was a chance one way or the other." Tr. 52-53. Saher testified that had someone told him that the offense was a crime involving moral turpitude and that he would be deported, he would not have pleaded no contest. Tr. 53.

{¶ 14} In response to questions from the trial court, Saher testified that counsel did not advise him "that there is a chance, but it could affect my

immigration status somehow," and, when asked how he thought his plea would affect his status, he answered, "I'm not sure, Your Honor." Tr. 54. When the court asked whether he knew there was a chance that deportation might or might not happen, Saher answered, "Possibly. I'm not a hundred percent sure, I can't recall," and when the court observed that this was what he had just testified to, Saher agreed that he knew deportation was a possibility. Tr. 54-55.

{¶ 15} In closing argument, counsel argued that under 8 U.S.C. 1227(a)(2)(A)(i) a noncitizen convicted of a crime involving moral turpitude committed within five years of admission "is deportable," that failure to comply is such an offense, and that Saher therefore had to be told specifically that deportation was the consequence of his plea. Tr. 56-57. The State argued that the Sixth Amendment right to counsel applies to criminal defense counsel and not to an independently consulted immigration attorney, that the advice was not deficient, and that Saher could not show prejudice because there was no defense at trial. Tr. 58-61. Counsel responded that speeding offenses are not crimes involving moral turpitude, that the executive has no discretion once a person is convicted of a crime involving moral turpitude within five years of admission, and that while he conceded "it is going to be a tough trial," the question was whether Saher would have waived his trial rights had he known deportation was automatic. Tr. 61-63.

{¶ 16} The State responded by quoting from trial counsel's December 10 filing, which stated that the only advice offered was that nearly any conviction,

including speeding tickets, could have some effect on certain discretionary decisions by immigration authorities, and argued that Saher knew there were risks at the time he entered his plea. Tr. 63-64. The trial court then recessed to consider the matter. Tr. 64-65.

{¶ 17} Upon returning, the trial court announced its ruling. The court first observed that certain arguments raised in the written motion had not been supported by testimony at the hearing, including the contention that the court had lessened the effect of the statutory deportation advisement by its comments at the plea, the contention concerning the advisement that Saher could be tried by 12 jurors or by the court, and the contention regarding the manner in which the court accepted the no contest plea and made its finding of guilt. Tr. 65-67. The court stated that it had asked the State to recite the facts, had accepted them, and had found Saher guilty and that it believed it had complied with Crim.R. 11. Tr. 66-67. The court also stated that it had "great sympathy" for Saher and did not agree with "the politics of deportation" but that it was "not for me to allow my personal political decisions to play into the judicial system." Tr. 67.

{¶ 18} The trial court then stated that because the motion was made after sentencing, Saher bore the burden of showing that withdrawal was necessary to correct a manifest injustice, which relates to some fundamental flaw in the proceedings, and that the standard is a high one. Tr. 67. The court identified the claim as one of ineffective assistance of counsel and stated that Saher was required to show that counsel's performance was deficient. Tr. 67. The court found that

counsel's testimony that he advised Saher that he could be deported was uncontroverted and that counsel had advised Saher to consult an immigration attorney, which Saher did. Tr. 68. The court stated that "much is made of the language that this is a deportable offense" but "[t]hat still doesn't mean you are going to be deported." Tr. 68. The court found that Saher "himself admits that he knew that it was a could or could not happen." Tr. 68. The court accepted that Saher had not been advised by anyone that the offense was a crime of moral turpitude "which related to federal code that would make it more likely that he would be deported," but stated that the fact that a person is deportable "does not mean he necessarily will be deported." Tr. 68. The court concluded that it could not get past the first prong; that Saher "knew that was a possibility" and "just thought it was unlikely, as did his criminal counsel after speaking to an immigration attorney"; and that the burden had not been met. Tr. 68-69. The court denied the motion to withdraw or vacate the plea. Tr. 69.

{¶ 19} The trial court subsequently terminated Saher's community-control supervision and waived costs and fees by journal entry dated July 29, 2026.

{¶ 20} Saher appeals, raising one assignment of error for review:

> The trial court erred in finding that trial counsel's performance was objectively reasonable, defeating a charge of ineffective assistance, where trial counsel advised Appellant Saher that deportation was possible, but unlikely, and deportation was an automatic, mandatory consequence of conviction.

II. Standard of Review

{¶ 21} To establish ineffective assistance of counsel, Saher must demonstrate that counsel's performance was deficient and that the deficient performance prejudiced the defense. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). "[A] court must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance; that is, the defendant must overcome the presumption that, under the circumstances, the challenged action 'might be considered sound trial strategy.'" *Id.* at 689, quoting *Michel v. Louisiana*, 350 U.S. 91, 101 (1955).

III. Law and Analysis

{¶ 22} Crim.R. 32.1 permits a defendant to move to withdraw a plea after sentence has been imposed only to correct a manifest injustice, and the defendant who files such a motion bears the burden of establishing that a manifest injustice exists. *State v. Smith*, 49 Ohio St.2d 261 (1977), syllabus. A trial court's ruling on a postsentence motion to withdraw a plea is reviewed for an abuse of discretion. *State v. Bozso*, 2020-Ohio-3779, ¶ 34. Where, as here, the manifest injustice asserted is the ineffective assistance of plea-stage counsel, the defendant must satisfy both prongs of the familiar two-part test: deficient performance and resulting prejudice. *Id.* at ¶ 2, citing *Strickland v. Washington*, 466 U.S. 668 (1984), and *Padilla v. Kentucky*, 559 U.S. 356 (2010). A failure of proof on either prong is fatal to the claim.

{¶ 23} In the immigration context, counsel for a noncitizen defendant "must inform [his or] her client whether the plea carries a risk of deportation." *Bozso* at ¶ 2. The scope of that duty varies with the clarity of the immigration consequence. When the deportation consequence is truly clear, the duty to give correct advice is equally clear, but "[i]n cases in which the law 'is not succinct and straightforward,' an attorney 'need do no more than advise a noncitizen client that pending criminal charges may carry a risk of adverse immigration consequences.'" *Id*. at ¶ 17, quoting *Padilla* at 369; *see also State v. Romero*, 2019-Ohio-1839, ¶ 26.

{¶ 24} Saher's argument, at its strongest, is this: 8 U.S.C. 1227(a)(2)(A)(i) renders deportable any alien convicted of a crime involving moral turpitude committed within five years after the date of admission; a conviction under R.C. 2921.331(B) and (C)(5)(a)(ii) is categorically such a crime; and therefore the deportation consequence of his no contest plea was clear and mandatory rather than merely possible. On that premise, advice that deportation was possible but unlikely was not the general warning permitted for unclear cases but affirmative misadvice about a certain consequence, and *Padilla* required more.

{¶ 25} The premise, however, was never established in the trial court. At the January 7, 2026 hearing on the motion to withdraw plea, Saher testified that he was born in Dubai, that he came to the United States when he was 17 years old with his parents, and that he believed he arrived in "either 2019 or 2020." Tr. 50. Asked whether he knew what his immigration status was when he entered the country, he answered, "Not fully, no." Tr. 50. He offered no documentation of his

date of admission and no evidence of the status under which he was admitted. Because the statutory provision on which Saher builds his entire argument reaches only a crime of moral turpitude "committed within five years . . . after the date of admission," and because the offense here occurred in April 2025, Saher's own testimony left it unresolved whether that provision applied to him at all. A defendant who bears the burden of establishing manifest injustice cannot carry it by asking a court to assume the operative fact that would make the deportation consequence clear. On this record, the deportation consequence was not shown to be the succinct and straightforward matter that *Padilla*, 559 U.S. 356 (2010), and *Bozso,* 2020-Ohio-3779, distinguish from the ordinary case.

{¶ 26} What the record does establish is the substance of what counsel did. Counsel testified that he has practiced criminal and traffic law for 50 years. Tr. 31. He knew Saher was not a citizen and understood him to be present on a valid work visa. Tr. 32-33. He testified that Saher was "very concerned about the consequences, not only of the criminal sentence but whether it would have deportation consequences" and that "he and I both looked into the potential consequences very seriously." Tr. 33. Counsel gave Saher a newspaper article concerning the detention of persons with legal status. Tr. 33. He had his legal intern research the question and learned that "there could be some problems . . . actually, with a felony plea, even problems with the traffic cases in Rocky River Municipal Court." Tr. 34. He consulted experienced criminal practitioners, who told him that deportation could be a problem even with a probationary sentence

on the felony. Tr. 34. He then referred Saher to several immigration lawyers. Tr. 34. Saher retained a consultation with one of them, and counsel personally joined and remained on the entire three-way call so that Saher would not be left "trying to understand" alone. Tr. 34-36. Asked by the trial court whether he had communicated to Saher that deportation could be a problem, counsel answered that Saher "was aware from the beginning" and that "in fact, that was his primary concern." Tr. 36.

{¶ 27} Saher's reliance on *State v. Tapia-Cortes*, 2016-Ohio-8101 (12th Dist.), for the proposition that counsel may not delegate the immigration-advice duty to an outside lawyer, does not fit this record. Counsel did not abdicate the question and hand it to someone else. He advised Saher that a felony plea carried deportation exposure, directed research into the issue, consulted other counsel, arranged the specialist consultation, participated in it in full, and supplied the immigration attorney with "everything he thought was relevant about the case." Tr. 45. Counsel's decision to supplement his own advice with that of a specialist, rather than to rest on his own reading of federal immigration law, is precisely the kind of conduct that falls within the wide range of reasonable professional assistance. Saher has not overcome the strong presumption that it does.

{¶ 28} Nor does Saher's testimony establish that he was told deportation would not occur. Trial counsel recalled that the immigration attorney's advice was that, given a legal work visa, no criminal record, and an anticipated nonprison result, there was discretion involved and Saher "should be okay," but that "[t]here

were no guarantees." Tr. 37. Counsel testified, "I would have thought he knew he was still at risk." Tr. 38. Saher himself testified that he knew this case might interfere with his immigration status, describing it as "[p]ossibly might, might not." Tr. 51. Under questioning by the trial court, he said that counsel told him the case "could affect my immigration status somehow" and he ultimately agreed that he knew deportation was a possibility, even if not a probability. Tr. 54-55. Saher waived the attorney-client privilege as to both trial counsel and the immigration attorney, but he called only trial counsel; the record therefore contains no account of the consultation other than the one just described. Tr. 30, 35-36,

{¶ 29} On that evidence, the trial court found that counsel advised Saher that deportation was possible and referred him to an immigration attorney with whom Saher in fact consulted, that Saher "himself admits that he knew that [deportation] it was a could or could not happen," that no one used the phrase "crime of moral turpitude," and that Saher "is facing deportation, but he knew that was a possibility. He just thought it was unlikely." Tr. 68-69. Those findings are supported by competent, credible evidence, and the conclusion drawn from them — that counsel's performance was not deficient — is neither unreasonable, arbitrary, nor unconscionable. That Saher hoped for, and expected, a better outcome than the risk he had been told about does not convert reasonable professional assistance into constitutionally deficient assistance.

{¶ 30} Because Saher did not satisfy the first prong, the trial court was not required to reach prejudice and neither is this court. It bears noting, however, that the record would not have compelled a contrary result on that prong either. Saher need not have demonstrated a viable defense, *see Lee v. United States*, 582 U.S. 357 (2017), but he was required to show a reasonable probability that he would not have entered his plea and would have insisted on going to trial, *Bozso,* 2020-Ohio-3779, at ¶ 19, and that rejecting the plea bargain would have been rational under the circumstances. Trial counsel testified at the January 7, 2026 hearing that "the facts of this case were not conducive to going to trial," that a trial "would have, you know, not been anything other than a delay, in my opinion, a delay tactic," and that "[t]here was evidence to convict him, and we discussed that." Tr. 39. He agreed that there was "no use going to trial" and that trial "would be futile," qualifying that only by observing, "You never know if witnesses don't show," and adding that Saher "was aware of that." Tr. 42-43. He also testified that he attempted to obtain a reduction from the charge in the indictment, that he met personally with the prosecutor's office about it, and they told him the office's policy on these cases was no reduction. Tr. 43. And counsel testified that "at the time, our focus was, could he avoid prison?" Tr. 39. Against that testimony, Saher offered a single answer — that he would not have pleaded no contest had he been told he would be deported. Tr. 53. Counsel for Saher himself acknowledged at the hearing, "I have to concede, it is going to be a tough trial" and that the parties might "get to the same thing after

a trial." Tr. 62-63. The trial court, having heard both witnesses, was entitled to weigh that bare assertion against the circumstances the record disclosed.

{¶ 31} Saher's remaining contention, drawn from the trial court's finding that no one used the phrase "crime of moral turpitude," is in substance that counsel was required to identify the specific federal classification of the offense and to state the consequence in the mandatory terms of the statute. Tr. 68. But the duty *Bozso* describes is a duty to inform the client whether the plea carries a risk of deportation, and the heightened duty to convey a clear consequence arises only where the consequence is clear. *Bozso* at ¶ 2, 17. Saher did not establish that it was clear here. The trial court's observation that a deportable offense "does not mean he will necessarily be deported," reflects the same distinction, and on this record it was not an unreasonable one. Tr. 68.

{¶ 32} This court need not decide the State's further contention that the Sixth Amendment right to the effective assistance of counsel does not reach an immigration attorney consulted separately from the criminal case. The question does not arise because Saher's claim was pressed against trial counsel, and counsel did not simply send Saher elsewhere and await the answer. He identified the issue at the outset, had it researched, consulted other criminal practitioners, arranged the consultation, supplied the specialist with the case information, participated in the call in its entirety, and then discussed the risk with Saher before the plea. Tr. 33-38, 45. Whatever the outer limits of the duty described in *Padilla,* 559 U.S. 356, and *Bozso*, that conduct satisfies it.

{¶ 33} The trial court heard the witnesses, resolved the conflict between counsel's and Saher's accounts, and concluded that Saher was advised of the deportation risk and elected to plead with that risk in view, believing it unlikely to materialize. Tr. 68-69. That conclusion rests on competent, credible evidence, and Saher has not overcome the strong presumption that counsel's conduct fell within the wide range of reasonable professional assistance. Saher therefore failed to carry his burden of establishing that the withdrawal of his plea was necessary to correct a manifest injustice, and the denial of his motion was neither unreasonable, arbitrary, nor unconscionable.

{¶ 34} Saher's sole assignment of error is overruled.

{¶ 35} 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.

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

ANITA LASTER MAYS, JUDGE

MICHELLE J. SHEEHAN, A.J., and
DEENA R. CALABRESE, J., CONCUR