

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BENNY R. ROTEN,	§	
	§	No. 464, 2004
Defendant Below,	§	
Appellant,	§	
	§	
v.	§	Court Below: Superior Court
	§	of the State of Delaware
STATE OF DELAWARE.	§	in and for Sussex County
	§	Cr. I.D. No. 0401005180
Plaintiff Below,	§	
Appellee.	§	

Submitted: September 7, 2005
Decided: September 15, 2005

Before **HOLLAND, BERGER** and **JACOBS**, Justices.

ORDER

This 15th day of September, 2005, on consideration of the briefs of the parties, it appears to the Court that:

1) Benny R. Roten appeals the Superior Court's denial of his motion to withdraw his guilty plea. Roten argues that the Superior Court abused its discretion by failing to hold an evidentiary hearing before denying the motion. Specifically, he contends that there was no record support for the trial court's conclusion that the State would be prejudiced if the plea were withdrawn. We find no merit to this argument and affirm.

2) Roten was charged with six offenses relating to an alleged assault on his girlfriend: kidnapping, attempted murder, aggravated menacing, possession of a deadly weapon during the commission of a felony, resisting arrest, and failure to submit to fingerprinting. At his final case review, Roten accepted a plea bargain under which he pled guilty to first degree assault and aggravated menacing, and the State *nolle prossed* the remaining charges. During a thorough plea colloquy, the trial court determined that Roten fully understood the implications of his plea and that his decision was knowing, intelligent and voluntary.

3) Before sentencing, Roten filed a *pro se* motion to withdraw his plea. Roten alleged, among other things, that: i) he did not fully understand the plea offer; ii) he was under the influence of medications; and iii) he was pushed and rushed into signing the plea agreement. On appeal, Roten acknowledges that none of those allegations, which are inconsistent with his sworn testimony during the plea colloquy, forms a basis for withdrawing his guilty plea. Instead, he argues that he had a fair and just reason to withdraw his plea because the withdrawal would not have prejudiced the State. He contends that the trial court should have held an evidentiary hearing to determine whether the State would have suffered any prejudice.

4) Because Roten did not request an evidentiary hearing, we review this claim for plain error, which is error that is “so clearly prejudicial to substantial rights as to

jeopardize the fairness and integrity of the trial process.”¹ We find no plain error. The trial court found that granting the motion would “unduly inconvenience this Court because this Court is overwhelmed with trials” and that it would prejudice the State because the State would have to “relocate and re-present evidence....” The trial court did not have to conduct an evidentiary hearing to determine that the withdrawal of the guilty plea would cause undue inconvenience to the court. Thus, even if the State would have suffered no significant prejudice, the trial court acted within its discretion in denying Roten’s motion.²

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court be, and the same hereby is, AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice

¹*Wainwright v. State*, 504 A.2d 1096, 1100 (Del. 1986).

²*Patterson v. State*, 684 A.2d 1234, 1238 (Del. 1996).