

MEMORANDUM DECISION

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IN THE
Court of Appeals of Indiana

Matthew C. Brenner,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff



May 10, 2024

Court of Appeals Case No.
23A-CR-2422

Appeal from the Vanderburgh Circuit Court

The Honorable David D. Kiely, Judge
The Honorable Kelli E. Fink, Magistrate

Trial Court Cause No.
82C01-2208-F4-4925

Memorandum Decision by Judge Weissmann
Judges Mathias and Tavitas concur.

Weissmann, Judge.

- [1] Matthew Brenner appeals the trial court’s denial of his motion to withdraw his guilty plea. Finding no abuse of the trial court’s discretion, we affirm.

Facts

- [2] The State accused Brenner of engaging in sexual intercourse and other sexual acts with a 14-year-old relative and then attempting to cover-up his actions through bribery. For this conduct, the State charged Brenner with two Level 4 felonies (sexual misconduct with a minor and incest), three Level 5 felonies (sexual misconduct with a minor, attempted bribery, and obstruction of justice), and one Level 6 felony (sexual battery).
- [3] Brenner entered into a plea agreement in which the State agreed to dismiss the Level 6 felony sexual battery charge in exchange for Brenner pleading guilty to the five remaining counts. The plea agreement also specified that Brenner would be sentenced to concurrent terms of six years on each count, with three years suspended to standard probation. The trial court took the plea agreement under advisement and set the matter for sentencing. Afterward, Brenner wrote letters to the court seeking to withdraw from the plea agreement, to which the State did not object. The trial court then allowed Brenner to withdraw this plea agreement.
- [4] Several months later, the State added two counts of rape as Level 3 felonies to Brenner’s charges. Brenner quickly entered into another plea agreement in which the State agreed to dismiss the charges of sexual battery and rape in

exchange for Brenner pleading guilty to the remaining charges. The agreement again specified that Brenner would be sentenced to concurrent six-year executed sentences on each count.

[5] At the guilty plea hearing, Brenner signed and initialed the plea agreement in open court and stated that he understood his charges. The trial court read the charges, and Brenner admitted that he committed those offenses. The trial court then advised Brenner of his constitutional rights, which Brenner stated he understood. Brenner further affirmed that he was entering into the agreement voluntarily, that he understood the proceeding, and that he had discussed the plea agreement with his counsel. After finding a factual basis for Brenner's plea, the court found that Brenner had entered his guilty plea "knowingly, voluntarily and intelligently." Tr. Vol. II, p. 40.

[6] Brenner appeared for sentencing the next month and asked to withdraw his guilty plea for a second time. At the start of the hearing, the trial court noted that Brenner "had filed a couple of letters recently" in which he asked for different counsel and to withdraw his guilty plea. *Id.* at 44-45. The court then asked Brenner why he wanted to withdraw his plea, and Brenner responded:

Well, your honor, I've pretty much sat this whole time[,] and the only time I've been able to even speak to an attorney was right before the trial date[s] that were set. Any other time, I've not had any contact from an attorney whatsoever, and I feel that that's inexcusable. I'm not given the, any opportunity to try to even remotely fight this case.

Id. at 45. The trial court denied Brenner’s request and in accordance with the plea agreement, sentenced him to concurrent terms of six years in the Indiana Department of Corrections on each count.

Discussion and Decision

- [7] Brenner appeals the trial court’s denial of his second motion to withdraw his guilty plea.
- [8] After a guilty plea is entered, but before sentence is imposed, the trial court may permit the defendant to withdraw his guilty plea for any fair and just reason unless the State has been substantially prejudiced by reliance on the plea. Ind. Code § 35-35-1-4(b). The court shall grant the motion if the defendant proves, by a preponderance of the evidence, that it is necessary to correct a manifest injustice. *Id.* Absent a showing of manifest injustice by the defendant, the decision whether to grant or deny the motion rests solely in the trial court’s discretion. *Id.* A trial court’s ruling on a defendant’s motion to withdraw their plea carries with it a presumption of validity. *Knight v. State*, 202 N.E.3d 475, 480 (Ind. Ct. App. 2023). We review such matters “only for an abuse of discretion.” Ind. Code § 35-35-1-4(b).
- [9] Brenner first claims that he did not voluntarily enter into the plea agreement or adequately understand its terms. Brenner alleges this occurred because he lacked a sufficient opportunity to discuss the agreement with his attorney. The record reflects otherwise. At the guilty plea hearing, Brenner confirmed that he understood the plea agreement and specifically said he discussed the agreement

with his counsel. Tr. Vol. II, p 20. The trial court also discussed with Brenner his constitutional rights and ensured that Brenner understood the effects of entering into a plea agreement. Brenner has not met his burden to show that the trial court erred in denying his motion to withdraw his guilty plea.

[10] Brenner next claims that the trial court erred by not ensuring a sufficient factual basis for his plea because, in his view, simply reading the charging information is not enough. Brenner is incorrect. A defendant's admission of guilt after a reading of the charges is adequate to establish a sufficient factual basis. *Ellis v. State*, 67 N.E.3d 643, 647 n.5 (Ind. 2017). At bottom, a sufficient factual basis is created so long as it "can be established by the defendant's admission that he understands the nature of the crime and understands that his guilty plea is an admission that he committed the crime." *State v. Hammond*, 761 N.E.2d 812, 814 (Ind. 2002). Because the factual basis plainly established that Brenner understood the nature of his crimes and that the effect of his guilty plea served as an admission to the allegations, his argument fails.

[11] In short, the trial court had an ample basis from the record before it to conclude that Brenner's assertions that he did not knowingly enter into his plea agreement were not credible. His arguments to the contrary are simply a request for this Court to reweigh the evidence, which we will not do. Accordingly, we affirm the trial court's denial of Brenner's motion to withdraw his guilty plea.

[12] Affirmed.

Mathias, J., and Tavitas, J., concur.

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