

Commonwealth of Kentucky

Court of Appeals

NO. 2017-CA-001796-MR

CALEB ALDRIDGE

APPELLANT

v. APPEAL FROM MADISON CIRCUIT COURT
HONORABLE WILLIAM G. CLOUSE, JR., JUDGE
ACTION NO. 15-CR-00106

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * * * * *

BEFORE: DIXON, KRAMER, AND J. LAMBERT, JUDGES.

KRAMER, JUDGE: Caleb Aldridge, *pro se*, appeals from the Madison Circuit Court's order denying his RCr¹ 11.42 motion to vacate his sentence. Aldridge asserts that the circuit court violated his due process rights by denying him an evidentiary hearing to prove his claim of ineffective assistance of counsel. After a careful review of the record and applicable law, we affirm.

¹ Kentucky Rule of Criminal Procedure.

FACTUAL AND PROCEDURAL BACKGROUND

On January 1, 2015, Caleb Aldridge, along with his two passengers, Chelsea Harnack and Amber Heller, were involved in an automobile accident. Harnack was killed in the accident, and Heller suffered severe injuries. Aldridge was indicted on charges of: murder, assault in the first degree, operating a motor vehicle while under the influence of alcohol, and failure to maintain insurance. Aldridge entered a plea of not guilty, and the case was set for trial. However, Aldridge eventually reached a plea agreement with the Commonwealth. Pursuant to the plea agreement, the murder charge was amended to manslaughter in the second degree with a recommended sentence of ten years; Aldridge would plead guilty to the assault charge with a recommended sentence of ten years. These two sentences were to run consecutively for a total of twenty years' imprisonment. For the two remaining charges, the Commonwealth recommended a fine and concurrent incarceration. The final judgment sentencing Aldridge to twenty years of imprisonment was entered in December 2016.

Aldridge moved to vacate his sentence pursuant to RCr 11.42. His motion alleged that he received ineffective assistance of his two trial counsel, because they failed to inform him of evidence in a private investigator's report and never discussed possible defenses with him. Aldridge claimed that the report stated his injuries were consistent with an individual sitting in the passenger's seat,

not the driver's seat, which supported his innocence. He also claimed that counsel never discussed with him how inconsistencies in Amber's statements could be pointed out during trial. He further claimed that Amber was bribed by investigating officers. Aldridge also moved for an evidentiary hearing.

The circuit court denied Aldridge's RCr 11.42 motion without holding an evidentiary hearing. The court found that Aldridge's guilty plea was entered "knowingly, intelligently, and voluntarily, and [that he] clearly demonstrated the ability to articulate and understand the process as well as the consequences of entering a guilty plea." It also noted that during the plea colloquy when the circuit court asked Aldridge to tell what happened, he responded, "[o]n the night of January 1st, I chose to drive a vehicle intoxicated which resulted in an accident causing death to one person and serious injury to another." Ultimately, the circuit court found that the motion lacked merit.

This appeal followed.

STANDARD OF REVIEW

This Court has previously stated that,

[w]e review the trial court's denial of an RCr 11.42 motion for an abuse of discretion. An RCr 11.42 motion is limited to the issues that were not and could not be raised on direct appeal. In order to prevail on an ineffective assistance of counsel claim, a movant must show that his counsel's performance was deficient and that but for the deficiency, the outcome would have been different. Courts must also examine counsel's conduct in

light of professional norms based on a standard of reasonableness.

Teague v. Commonwealth, 428 S.W.3d 630, 633 (Ky. App. 2014) (internal citations omitted).

ANALYSIS

Aldridge argues that the circuit court erred in denying his RCr 11.42 motion without holding an evidentiary hearing and allowing him to prove that he received ineffective assistance of both of his counsel. He alleges that counsel improperly advised him to plead guilty to his charges when evidence existed of his innocence. We disagree.

We begin our analysis with determining whether Aldridge's guilty plea was voluntary. This Court has previously explained that, "[t]he test for determining the validity of a guilty plea is whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant. There must be an affirmative showing in the record that the plea was intelligently and voluntarily made." *Sturgill v. Commonwealth*, 533 S.W.3d 204, 208 (Ky. App. 2017) (internal citation omitted). Aldridge acknowledged during his plea colloquy that: he was pleased with the joint representation of counsel; he understood his constitutional rights; he was entering the plea at his own free will; and he understood the process and procedure of entering a guilty plea. The circuit court also noted in its order denying the RCr 11.42 motion that the court gave

Aldridge “several opportunities to bring forth any concerns concerning the process, the charges, and defense counsel.” Aldridge assured the court during his plea colloquy that he understood what he was doing by entering the plea of guilty. Therefore, there is nothing from the plea colloquy that causes us to find error in the circuit court’s decision that Aldridge’s plea was voluntarily and intelligently made.

Having found no indication from the record that Aldridge’s plea was made involuntarily, we turn to counsel’s performance. The Supreme Court of Kentucky has previously stated that,

[i]n order to prove ineffective assistance of counsel where a guilty plea has been entered, the movant must establish:

(1) that counsel made errors so serious that counsel’s performance fell outside the wide range of professionally competent assistance; and (2) that the deficient performance so seriously affected the outcome of the plea process that, but for the errors of counsel, there is a reasonable probability that the defendant would not have pleaded guilty, but would have insisted on going to trial.

[T]he trial court must evaluate whether errors by trial counsel significantly influenced the defendant’s decision to plead guilty in a manner which gives the trial court reason to doubt the voluntariness and validity of the plea.

Commonwealth v. Elza, 284 S.W.3d 118, 120-21 (Ky. 2009) (internal citations omitted).

Aldridge asserts that his counsel did not inform him about an accident reconstruction report, which points out that his injuries were consistent with an individual sitting in the front passenger seat, not in the driver's seat. He also asserts that had he known of this report, he would not have entered a plea of guilty. However, the record does not support these assertions. To the contrary, the record reflects that Aldridge was aware that a report of this nature was being prepared. At a hearing in April 2016, with Aldridge present, defense counsel moved to continue the trial for this report to be completed, which was ultimately granted.

Further, the record reflects that the circuit court gave Aldridge ample opportunity to bring forth this issue at his plea colloquy. Rather than addressing this issue, Aldridge voluntarily admitted in open court that he was the one driving the car while intoxicated leading to the death of one and serious injury of another. He also represented in open court that he was satisfied with his joint representation; that he was entering the plea of his own free will; and that he felt this decision was in his best interest. Therefore, the errors alleged by Aldridge do not rise to the level of ineffective assistance of counsel. Aldridge has failed to convince this Court that counsel's performance was deficient, or that absent those deficiencies, he would have rejected the offer of the Commonwealth.

Consequently, an evidentiary hearing was not required to be held. On appeal from the denial of an RCr 11.42 motion without an evidentiary hearing,

“[o]ur review is confined to whether the motion on its face states grounds that are not conclusively refuted by the record and which, if true, would invalidate the conviction.” *Lewis v. Commonwealth*, 411 S.W.2d 321, 322 (Ky. 1967).

Aldridge knowingly entered a guilty plea and was given sufficient opportunity to mention to the circuit court that he had not reviewed the report. The record reflects that Aldridge was aware of the report and that he voluntarily admitted to driving intoxicated. The Supreme Court of Kentucky has previously explained that, “[a]n evidentiary hearing is not required to consider issues already refuted by the record in the trial court. Conclusionary allegations which are not supported by specific facts do not justify an evidentiary hearing because RCr 11.42 does not require a hearing to serve the function of discovery.” *Haight v. Commonwealth*, 41 S.W.3d 436, 442 (Ky. 2001) (citation omitted), *overruled on other grounds by Leonard v. Commonwealth*, 279 S.W.3d 151 (Ky. 2009). The record clearly supports the decision of the circuit court. Therefore, the circuit court did not err in failing to hold an evidentiary hearing concerning Aldridge’s claim.

CONCLUSION

The order of the Madison Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Caleb Aldridge

Pro se

LaGrange, Kentucky

BRIEF FOR APPELLEE:

Andy Beshear

Attorney General of Kentucky

Ken W. Riggs

Assistant Attorney General

Frankfort, Kentucky