

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA : IN THE SUPERIOR COURT OF  
: PENNSYLVANIA

v.

JEFFREY ALLEN CAMP, JR.

Appellant

No. 1023 MDA 2019

Appeal from the Judgment of Sentence Entered January 28, 2019  
In the Court of Common Pleas of Union County  
Criminal Division at No(s): CP-60-CR-0000206-2018

COMMONWEALTH OF PENNSYLVANIA : IN THE SUPERIOR COURT OF  
: PENNSYLVANIA

v.

JEFFREY ALLEN CAMP, JR.

Appellant

No. 1024 MDA 2019

Appeal from the Judgment of Sentence Entered January 28, 2019  
In the Court of Common Pleas of Union County  
Criminal Division at No(s): CP-60-CR-0000207-2018

COMMONWEALTH OF PENNSYLVANIA : IN THE SUPERIOR COURT OF  
: PENNSYLVANIA

v.

JEFFREY ALLEN CAMP, JR.

Appellant

No. 1025 MDA 2019

Appeal from the Judgment of Sentence Entered January 28, 2019  
In the Court of Common Pleas of Union County  
Criminal Division at No(s): CP-60-CR-0000208-2018

BEFORE: PANELLA, P.J., KUNSELMAN, J., and COLINS, J.\*

MEMORANDUM BY COLINS, J.:

**FILED DECEMBER 13, 2021**

Following remand<sup>1</sup>, Jeffrey Allen Camp, Jr., appeals from his consolidated three judgments of sentence that were entered after Camp pleaded guilty to six counts of rape by forcible compulsion. **See** 18 Pa.C.S.A. § 3121(a)(1). On appeal, Camp asserts that the trial court erred by denying his motion to withdraw his guilty plea both before and after sentencing. As we see no merit to either claim, we affirm.

Briefly, Camp entered into a negotiated plea agreement wherein he pleaded guilty to six counts of rape. On his written guilty plea, which in all other respects featured the normal array of initialing and his agreement to the terms contained in that document, Camp indicated that he wished to plead guilty because he was “going to state [prison] either way[.]” Guilty/Nolo Contendere Plea, 10/11/18, at 7, ¶ 23.

Several days later, after being read the factual and legal bases for the crimes in which he was charged and approximately the mid-way point through the proceeding, Camp stated that he did not commit the offenses to which he

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\* Retired Senior Judge assigned to the Superior Court.

<sup>1</sup> The most recent iteration of this matter before the Court resulted in a judgment order that not only remanded the case, but concurrently relinquished panel jurisdiction. **See Commonwealth v. Camp**, J-S65040-19, Judgment Order, at 4 (Pa. Super., April 15, 2020). The judgment order noted the ambiguities surrounding the COVID-19 pandemic and its impact on court proceedings. However, because that order also retained the Court’s jurisdiction, panel jurisdiction should have, too, been retained. Accordingly, we maintain the same journal number and panel composition as before and proceed to evaluate the case’s underlying merits.

was pleading guilty.<sup>2</sup> **See** Plea Hearing, 10/16/18, at 9. Moreover, during these same proceedings, Camp's knee "gave out," which resulted in him hitting his head. **Id.** With that said, Camp indicated that the fall did not affect his ability to proceed. **See id.** Thereafter, Camp ultimately assented to having committed the offenses in which he was pleading guilty.

After pleading guilty but prior to sentencing, Camp's attorney filed a petition to both withdraw as Camp's counsel and withdraw his guilty plea. After holding a hearing, which featured Camp's attorney alluding to Camp's disapproval of the way she had been handling his case, the trial court denied both elements of the petition and sentenced Camp to an aggregate twenty-one to fifty-four years of incarceration.

Specifically, the court found that while Camp proclaimed his innocence, he adduced no "fair and just reason to withdraw his plea." Trial Court Opinion, 1/26/21, at 2 (unpaginated). Following sentencing, Camp's counsel again attempted to withdraw as counsel and withdraw his guilty plea, but the court denied the latter request and deferred ruling on the former. This time, the court "believed that [his] naked assertion of innocence after a[n] admission of guilt under oath at the guilty plea hearing did not rise to the level of a

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<sup>2</sup> Camp originally indicated, prior to this rejection, that he accepted the plea's terms and understood, *inter alia*, the nature of the charges against him, the elements of the charges against him, and the possible punishments that he faced. **See** Plea Hearing, 10/16/18, at 4-5, 7, 10 (stating, too, that nobody had threatened Camp or promised him anything to enter a plea and that his decision to proceed in this manner was his own).

manifest injustice required for a post-sentencing motion to withdraw [a] guilty plea.” ***Id.***

Subsequently, Camp’s counsel filed a notice of appeal, but indicated in her Pennsylvania Rule of Appellate Procedure 1925(b) statement that she would file a brief pursuant to ***Anders/McClendon***<sup>3</sup>. The trial court then permitted Camp’s counsel to withdraw, and new counsel was appointed. New counsel did not amend the former counsel’s 1925(b) statement. Instead, an advocate brief was filed with this Court, asserting issues not originally raised at the trial-court level by former counsel. Resultantly, this Court remanded the case back to the trial court so that new counsel could modify Camp’s 1925(b) statement. Nevertheless, “[t]he trial court permitted [new] counsel to withdraw before the amended statement was filed and appointed [a third attorney] as new appellate counsel,” Appellant’s Brief, at 9, who has materially complied with our remand directives. As such, this appeal is properly before this Court, and we now evaluate the two claims raised in Camp’s brief.

On appeal, Camp avers that:

1. The trial court erred and/or abused its discretion when it denied his motion to withdraw his plea prior to sentencing.
2. The trial court erred and/or abused its discretion when it denied his motion to withdraw his plea after sentencing.

***See id.***, at 6.

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<sup>3</sup> ***See Anders v. California***, 386 U.S. 738 (1967); ***Commonwealth v. McClendon***, 434 A.2d 1185 (Pa. 1981), *abrogated by Commonwealth v. Santiago*, 978 A.2d 349 (Pa. 2009).

Broadly, Camp contends that he “gave fair reasons for the [withdraw] request and ... the Commonwealth failed to establish that [it] would be substantially prejudiced as a result of that withdrawal.” *Id.*, at 9.

First, we address Camp’s motion prior to sentencing. “At any time before the imposition of sentence, the court may, in its discretion, permit, upon motion of the defendant, or direct, *sua sponte*, the withdrawal of a plea of guilty ... and the substitution of a plea of not guilty.” Pa.R.Crim.P. 591(a) (italics added). When a defendant offers, pre-sentence, a fair and just reason to withdraw his guilty plea, such a motion must be granted if withdrawal will not cause substantial prejudice to the Commonwealth. ***See Commonwealth v. Carrasquillo***, 115 A.3d 1284, 1292 (Pa. 2015).

A trial court should liberally allow for the withdrawal of a plea prior to sentencing. ***See Commonwealth v. Norton***, 201 A.3d 112, 116 (Pa. 2019). However, “liberal” does not mean such motions are granted on a *pro forma* basis, nor is there any absolute right to withdraw such a plea. Instead, “[w]hen a defendant files a presentence motion to withdraw a guilty plea based upon a claim of innocence, the innocence claim must be at least plausible to demonstrate, in and of itself, a fair and just reason for pre[-]sentence withdrawal of a plea.” *Id.*, at 120 (citation and internal quotation marks omitted). Stated another way, it is not an abuse of the trial court’s discretion to deny a motion to withdraw a guilty plea when the defendant merely presents a “bare assertion of innocence[.]” *Id.*, at 122. Thus, “the

proper inquiry on consideration of such a withdrawal motion is whether the accused has made some colorable demonstration, under the circumstances, such that permitting withdrawal of the plea would promote fairness and justice." *Id.*, at 120-21 (citation omitted).

Camp suggests that he sufficiently demonstrated his innocence when he: (1) stated at his plea proceeding that he did not commit the charges against him; (2) told counsel that he wanted to withdraw his plea on the basis of innocence; (3) was never asked by the court why he wanted to withdraw his plea; (4) was coerced by counsel to plead guilty; and (5) told the probation department, during the construction of its presentence report on him, that he was innocent. *See* Appellant's Brief, at 11-12. Camp additionally argues that the Commonwealth never demonstrated how his plea withdrawal would be substantially prejudicial. *See id.*, at 12.

As to the "substantially prejudicial" onus on the Commonwealth, such a demonstration is only necessary when a defendant shows a fair and just reason for withdrawing his plea. The trial court, here, did not find that such a proffer was made. Instead, it found that Camp, under the auspice that his counsel forced him to plead guilty, merely proclaimed his factual innocence and wanted to proceed to trial. *See* Trial Court Opinion, 5/21/19, at 3 (unpaginated). There was no further elaboration as to how or why he was innocent, either raised before the trial court or now on appeal. Furthermore, other than the blanket suggestion that Camp was somehow coerced into

assenting to his plea agreement, which was based on apparent disagreements between him and counsel, such a claim is largely undeveloped on appeal.

The court construed his desire to withdraw from his guilty plea as “diametrically opposite to his statements under oath at his plea hearing when he admitted ... that he committed the offenses to which he pleaded guilty[.]”

**Id.** The trial court explained, in detail, the charges that were before him, and Camp signaled his unequivocal intent to both accept the plea’s terms and concede to his guilt for the charged crimes. **See, e.g.**, Plea Hearing, 10/16/18, at 10 (demonstrating Camp’s answer of “yes” to the question of “did you in fact commit the offenses to which you’re pleading guilty?”). The court also expressly asked, and Camp explicitly answered, questions regarding whether Camp was satisfied with his attorney’s representation, whether he had been accurately apprised of the plea’s contents, and whether he was under the influence of any drugs or medication. **See, e.g., id.**, at 3, 10. The court also underlined the elements of the charges against Camp, the possible punishments he could face, his presumed innocence, and his right to a trial by a jury or a judge. **See id.**, at 5-6.

Beyond that of his oral guilty plea hearing, Camp completed a written guilty plea component, containing multiple iterations of his initials and his signature, which evidenced the same understanding as to the plea’s contents and his rights thereunder. When asked whether Camp had fully reviewed and understood the written guilty plea component, Camp answered in the

affirmative. **See id.**, at 3-4.

Given (1) the necessity for an innocence claim to be plausible, (2) Camp's articulation of no specific factual basis to premise his innocence on, and (3) the in-depth record demonstrating, at multiple junctures, Camp's complete understanding of and acquiescence to the plea agreement, the trial court did not abuse its discretion in denying Camp's pre-sentence motion to withdraw his guilty plea. Stated differently, although he has illuminated various points of record when he indicated to counsel and others that he was innocent, Camp has not demonstrated how or why his claim of innocence rises beyond that of a bare assertion. Without any kind of corresponding factual underpinning as to his innocence even suggested, there was no fair and just basis for the court to conclude that permitting Camp to withdraw his guilty plea was the legally proper course of action. Accordingly, Camp is due no relief on this claim.

Camp secondly insists that the court should have permitted him to withdraw his plea agreement after sentencing because of his demonstration that he had been coerced into making such an agreement. As Camp identifies, a defendant must demonstrate prejudice amounting to a manifest injustice to allow for the withdrawal of a post-sentence guilty plea. **See** Appellant's Brief, at 14, quoting **Commonwealth v. Yeomans**, 24 A.3d 1044, 1046 (Pa. Super. 2011) (citation omitted). Such a demonstration can be made if the defendant can establish that the plea was entered into involuntarily, unknowingly, or



unintelligently. ***See id.***

The gravamen of Camp's argument is that because there was some statement to the effect that he was coerced to plead guilty in at least one of his motions to withdraw his plea, that he initially indicated in open court that he was not guilty of the charged offenses, and that he stated on his written guilty plea form that he was going to state prison either way, the record reflects an involuntary agreement to such a plea. Other than citing to the legal standard courts are to use to evaluate a post-sentence motion to withdraw a guilty plea, Camp does not reference any authority to reinforce his underlying assertion.

While Camp might not have agreed in all capacities with his original counsel, he unambiguously stated on the record that he was satisfied with her representation. Moreover, Camp does not suggest that he directed his original counsel to perform in some specific manner and that she openly ignored his request. Instead, as best we can discern from the record, Camp was fully cognizant of the charges before him, agreed with the contents of his plea agreement, and found his counsel during those proceedings to be, at a minimum, satisfactory.

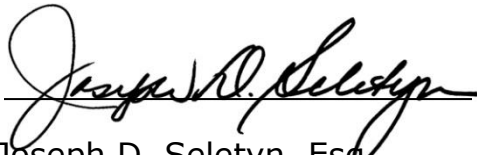
That he may, at some point, have had *post hoc* reservations about the plea agreement is of no moment when expressly contradicted by his written and oral agreement to its terms on record. In addition, Camp has presented no legal basis to establish that he has suffered any other kind of manifest

injustice as a result of his post-sentence desire to withdraw from his guilty plea. In finding there to be no basis to the contention that Camp entered into his plea agreement unknowingly, Camp's second issue necessarily fails.

As Camp has failed to demonstrate how the trial court abused its discretion in denying his pre-sentence and post-sentence motions to withdraw his guilty plea, we are constrained to affirm his judgment of sentence.

Judgment of sentence affirmed.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn", written over a horizontal line.

Joseph D. Seletyn, Esq.  
Prothonotary

Date: 12/13/2021