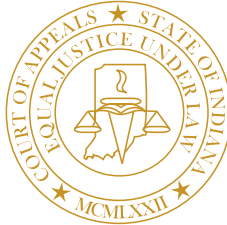


## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



# IN THE Court of Appeals of Indiana

Calvin W. Mitchell,  
*Appellant-Defendant*

v.

State of Indiana,  
*Appellee-Plaintiff*

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December 29, 2025

Court of Appeals Case No.  
24A-CR-2530

Appeal from the Allen Superior Court  
The Honorable Steven O. Godfrey, Judge  
Trial Court Cause No.  
02D04-1805-F3-29

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**Memorandum Decision by Judge Foley**  
Chief Judge Altice and Judge May concur.

## **Foley, Judge.**

- [1] Calvin W. Mitchell (“Mitchell”) raises numerous issues related to his underlying criminal case under which he pleaded guilty and was sentenced in June 2019. Finding these issues waived, we conclude that the only issues properly in front of this court are whether the trial court erred when it denied his motion for appointment of counsel and his motion for permission to file a belated motion to correct error. Because we conclude that he has also waived these issues, we affirm.

## **Facts and Procedural History**

- [2] On May 8, 2018, the State charged Mitchell with two counts of Level 3 felony dealing in cocaine or narcotic drug, one count of Level 4 felony unlawful possession of a firearm by a serious violent felon, one count of Level 6 felony maintaining a common nuisance, one count of Level 6 felony resisting law enforcement, and one count of Class B misdemeanor possession of marijuana, hash oil, hashish, salvia, or synthetic drug. On May 23, 2019, Mitchell pleaded guilty to Level 4 felony dealing in cocaine or narcotic drug, Level 4 felony unlawful possession of a firearm by a serious violent felon, and Level 6 felony resisting law enforcement pursuant to a fixed-term plea agreement. In that agreement, Mitchell agreed to serve a total of six years, with two years executed and four years suspended to probation. In exchange, the State agreed to dismiss the remaining charges and to not file charges in another case. On June 17, 2019, the trial court accepted the plea agreement, entered judgments of conviction, and sentenced Mitchell according to the agreement.

- [3] On March 30, 2021, the State filed a petition to revoke Mitchell’s probation, alleging Mitchell committed a new criminal offense. On March 22, 2023, the State filed a motion to dismiss the petition to revoke and requested that Mitchell be unsatisfactorily released from probation. The trial court granted the State’s request the same day.
- [4] After Mitchell was released from probation, acting pro se, he filed several motions with the trial court, including a “Motion to Compel Production of Documents for Petition to Post-Conviction Relief,” a “Motion for Order Authorizing to Consider Successive Post-Conviction Relief,” and a Motion to Unseal Documents.” Appellee’s App. Vol. 2 pp. 22–23. On August 19, 2024, Mitchell filed a motion for appointment of counsel, and the trial court denied this motion on August 21, 2024. On September 16, 2024, he filed a motion to file a belated motion to correct error, which the trial court denied on September 19, 2024. On October 7, 2024, Mitchell filed a notice of appeal, stating his intent to appeal the trial court’s “Denial of Permission to a File Belated Motion to Correct Error Pursuant to Rule PC 2 and Motion for Appointment of Counsel.” *Id.* at 71.

## **Discussion and Decision**

- [5] Initially, we note that Mitchell has chosen to proceed pro se. A litigant is not given special consideration by virtue of his or her pro se status. *Kelley v. State*, 166 N.E.3d 936, 937 (Ind. Ct. App. 2021). “It is well settled that pro se litigants are held to the same legal standards as licensed attorneys. This means that pro se litigants are bound to follow the established rules of procedure and must be

prepared to accept the consequences of their failure to do so.” *Basic v. Amouri*, 58 N.E.3d 980, 983–84 (Ind. Ct. App. 2016) (internal citations omitted). These consequences include waiver for failure to present cogent arguments on appeal. *Id.* at 984.

[6] In his appellate brief, Mitchell raises numerous issues that all pertain to his underlying criminal case, under which he pleaded guilty and was sentenced in 2019. However, in his notice of appeal, he stated that he was appealing the denial of his motion for appointment of counsel and denial of his motion to file a belated motion to correct error. None of the issues raised in his appellate brief pertain to the denial of these motions. Indeed, the issues raised do not concern the challenged denials at all and have not been presented to or adjudicated by the trial court, and therefore, these issues are waived. *See A.R. v. State*, 196 N.E.3d 289, 298 (Ind. Ct. App. 2022) (finding issue waived where it was not raised to the trial court); *Morgan v. State*, 755 N.E.2d 1070, 1077 (Ind. 2001) (“Defendant’s argument on appeal is different than his argument at trial, and his objection is therefore waived.”).

[7] The only matters that are properly before this court are the denials of his motion for appointment of counsel and his motion to file a belated motion to correct error. However, Mitchell has not developed any cogent argument as to how the trial court erred in denying these motions in his appellate brief. He also fails to cite to pertinent legal authority or relevant portions of the record to support how the trial court erred in denying the motions. A party waives an issue where the party fails to develop a cogent argument or provide adequate

citation to authority and portions of the record. *Clary-Ghosh v. Ghosh*, 26 N.E.3d 986, 989 n.1 (Ind. Ct. App. 2015) (citing *Dickes v. Felger*, 981 N.E.2d 559, 562 (Ind. Ct. App. 2012)), *trans. denied*. Mitchell has, therefore, waived his challenge to the denial of his motions for appointment of counsel and for a belated motion to correct error, and we affirm the trial court.<sup>1</sup>

[8] Affirmed.

Altice, C.J. and May, J., concur.

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<sup>1</sup> We note that Mitchell's arguments contained in his brief may more appropriately be raised in a petition for post-conviction relief. *See* Ind. Post-Conviction Rule 1(1)(a) (setting out the conditions under which a petition for post-conviction relief may be filed).