

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Bryce A. Luckey,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

March 28, 2023

Court of Appeals Case No.
22A-CR-2609

Appeal from the Huntington
Circuit Court

The Honorable Davin G. Smith,
Judge

Trial Court Cause No.
35C01-2106-F3-188

Memorandum Decision by Judge Robb
Judges Crone and Kenworthy concur.

Robb, Judge.

Case Summary and Issue

- [1] Bryce Luckey pleaded guilty to aiding in rape, a Level 3 felony. Prior to sentencing, Luckey filed a motion to withdraw his guilty plea. After a hearing, the trial court denied his motion and sentenced Luckey to nine years with two years executed in the Indiana Department of Correction (“DOC”) and seven years suspended to probation. Luckey appeals, raising one issue for our review, which we restate as whether the trial court abused its discretion by denying his motion to withdraw guilty plea. Concluding the trial court did not abuse its discretion, we affirm.

Facts and Procedural History

- [2] Luckey and N.L. are brother and sister. On May 29, 2021, N.L. was brought to the Huntington Police Department by her mother regarding a possible sexual assault. N.L. participated in a forensic interview where she told police that during the summer of 2020 while she was with Luckey and his friend Logan Stuckey, she was sexually assaulted by Stuckey and that Luckey “grabbed her hands and held them” during the assault. Appellant’s Appendix, Volume II at 47. Subsequently, police interviewed Luckey and Stuckey. Stuckey told police he remembered Luckey trying to help him during the assault but did not remember if Luckey held N.L.’s hands. However, Luckey confirmed with police that he held N.L.’s arms during the assault. *See id.* at 53.

- [3] On June 17, 2021, the State charged Luckey with aiding in rape as a Level 3 felony. On November 1, 2021, Luckey pleaded guilty and admitted to the following factual basis for his plea:

Sometime during June 2020 through August 2020, I was with Victim and my friend, Logan Stucky [sic]. Logan forcibly pulled Victim's pants down as Victim tried to pull them up. Logan eventually pushed Victim to the ground and inserted his penis into Victim's anus and vagina. While this was occurring, I stood by and told Victim to go along with it. As Victim continued to struggle, I grabbed her hands and held them so that Logan Stucky [sic] could continue to insert his penis into Victim. Afterward, I apologized to Victim.

Id. at 68. Luckey's plea also stipulated that his sentence would "be deferred until [he is] no longer participating in sex offender counseling[.]" *Id.* at 66.

- [4] On October 3, 2022, the parties appeared for Luckey's sentencing. Luckey's defense counsel told the trial court that N.L. had come forward that morning and given counsel a letter "essentially recanting" her allegations against Luckey. Transcript, Volume 2 at 56. Luckey was allowed a two-week continuance to pursue a motion to withdraw his guilty plea, which he filed on October 16. A hearing on the motion was held the next day at which Luckey entered into evidence a letter purportedly from N.L., stating Luckey "is getting in alot of trouble for something he didn't do." Exhibits, Volume 3 at 3. The letter is unsigned and unverified.

- [5] The trial court denied Luckey's motion, concluding no "fair and just reason exists for [Luckey] to withdraw his guilty plea, especially given the State's

reliance on the plea.” Appellant’s App., Vol. II at 89. The trial court then sentenced Luckey to nine years with two years executed in the DOC and seven years suspended to probation. Luckey now appeals. Additional facts will be provided as necessary.

Discussion and Decision

I. Standard of Review

[6] In general, after a defendant pleads guilty but before a sentence is imposed, the defendant may move to withdraw a plea of guilty and the court may, in its discretion, grant the motion for any fair and just reason. Ind. Code § 35-35-1-4(b); *Jeffries v. State*, 966 N.E.2d 773, 777 (Ind. Ct. App. 2012), *trans. denied*.

However, the court must grant the motion if withdrawal is necessary to correct a manifest injustice. *Jeffries*, 966 N.E.2d at 777. On the other hand, the court must deny the motion if the State would be substantially prejudiced by the withdrawal of the plea. *Id.* Therefore, to the extent that substantial prejudice or manifest injustice are not implicated, a grant or denial of the motion is within the discretion of the court.¹ *Id.*

[7] There is a presumption in favor of a trial court’s ruling on a motion to withdraw a guilty plea, and we will reverse that ruling only for an abuse of

¹ Because we determine that Luckey failed to demonstrate a manifest injustice and the trial court did not abuse its discretion, we need not determine whether the withdrawal would have substantially prejudiced the State.

discretion. *Id.* In determining whether an abuse of discretion has occurred, we will examine statements by the defendant at the plea hearing to decide whether the plea was offered “freely and knowingly.” *Id.*

II. Motion to Withdraw Guilty Plea

- [8] Luckey argues the trial court erred by denying his motion to withdraw guilty plea.² Specifically, Luckey contends that N.L.’s letter recanting her allegations against Luckey required the trial court to grant his motion to withdraw guilty plea to correct a manifest injustice. A defendant has the burden to prove by a preponderance of the evidence and with specific facts that he should be permitted to withdraw his plea. Ind. Code § 35-35-1-4(b), (e).
- [9] Instances of manifest injustice may include any of the following: “a defendant is denied the effective assistance of counsel, the plea was not entered or ratified by the defendant, the plea was not knowingly and voluntarily made, the prosecutor failed to abide by the terms of the plea agreement, or the plea and judgment of conviction are void or voidable.” *Jeffries*, 966 N.E.2d at 778; *see also* Ind. Code § 35-35-1-4(c). Luckey concedes that his plea was knowingly and voluntarily entered but argues the manifest injustice is based solely on the “newly

² The State argues Luckey’s motion to withdraw guilty plea is unverified and therefore his claim is waived. Motions to withdraw guilty pleas “shall be in writing and verified” and “shall state facts in support of the relief demanded[.]” Ind. Code § 35-35-1-4(b). “A defendant’s failure to submit a verified, written motion to withdraw a guilty plea generally results in waiver of the issue of wrongful denial of the request.” *Peel v. State*, 951 N.E.2d 269, 272 (Ind. Ct. App. 2011) (citation omitted). However, we choose to address Luckey’s claims because of our “strong preference to decide issues on their merits[.]” *Collins v. State*, 639 N.E.2d 653, 655 n.3 (Ind. Ct. App. 1994), *trans. denied*.

discovered evidence[.]” Appellant’s Brief at 18. However, the unsigned and unverified letter does not negate or invalidate the factual basis on which the trial court accepted Luckey’s guilty plea.³ Ind. Code § 35-35-1-3(b). Accordingly, Luckey has failed to prove that withdrawal was necessary to correct a manifest injustice.

[10] Because a manifest injustice is not implicated, we must determine whether the trial court abused its discretion by failing to grant the motion to withdraw guilty plea. *Jeffries*, 966 N.E.2d at 777. Here, the victim told police in a forensic interview that Luckey held her arms down while Stuckey raped her. *See* Appellant’s App., Vol. II at 47. Stuckey told police he remembered Luckey trying to help him during the assault. *See id.* at 61. Further, Luckey, in a separate forensic interview, admitted to police that he held N.L.’s arms down during the incident. *See id.* at 53. Luckey then knowingly and voluntarily pleaded guilty to the crime and expressly stipulated, “As Victim continued to struggle, I grabbed her hands and held them so that Logan Stucky [sic] could continue to insert his penis into Victim.” *Id.* at 68. And, although the letter

³ Indiana Code section 35-35-1-3(b) provides in relevant part that the court “shall not enter judgment upon a plea of guilty . . . unless it is satisfied from its examination of the defendant or the evidence presented that there is a factual basis for the plea.” The factual basis requirement primarily ensures that when a plea is accepted there is sufficient evidence from which a court can conclude the defendant could have been convicted had he stood trial. *Butler v. State*, 658 N.E.2d 72, 76 (Ind. 1995). An adequate factual basis for the acceptance of a guilty plea may be established by: (1) the State’s presentation of evidence on the elements of the charged offenses; (2) the defendant’s sworn testimony regarding the events underlying the charges; (3) the defendant’s admission of the truth of the allegations in the information read in court; or (4) the defendant’s acknowledgment that he understands the nature of the offenses charged and that his plea is an admission of the charges. *Madden v. State*, 697 N.E.2d 964, 967 (Ind. Ct. App. 1998), *trans. denied*. Here, the State presented evidence that N.L. told police that Luckey held her down and Luckey himself admitted this to police. Further, Luckey made an admission to the charges in his guilty plea.

submitted to Luckey’s counsel contains contradictory evidence, “[w]e will not disturb the trial court’s ruling [on a motion to withdraw] where it was based on conflicting evidence[.]” *Smith v. State*, 596 N.E.2d 257, 258 (Ind. Ct. App. 1992).

- [11] Therefore, we cannot say that the trial court abused its discretion when it denied Luckey’s motion to withdraw his guilty plea.

Conclusion

- [12] We conclude the trial court did not abuse its discretion when it denied Luckey’s motion to withdraw his guilty plea. Accordingly, we affirm.
- [13] Affirmed.

Crone, J., and Kenworthy, J., concur.