



## STATEMENT OF THE CASE

Defendant-Appellant Spencer R. Norvell appeals the denial of his Motion for Withdrawal of Guilty Plea (“Motion”). We affirm.

## ISSUE

Norvell raises one issue, which we restate as whether the trial court abused its discretion in denying Norvell’s Motion.

## FACTS AND PROCEDURAL HISTORY

The State charged Norvell with four counts of armed robbery, all Class B felonies, Indiana Code section 35-42-5-1 (1984), and unlawful possession of a firearm by a serious violent felon, a Class B felony, Indiana Code section 35-47-4-5 (2006). The parties executed a plea agreement, in which Norvell agreed to plead guilty to the armed robbery charges in exchange for the State’s dismissal of the firearm charge and the State’s dismissal of all charges against him in another case.

On March 17, 2010, the court held a hearing on the plea agreement. At the end of the hearing, the court determined that Norvell understood the nature of the charges to which he wished to plead guilty and that there was a factual basis for his plea. On April 26, 2010, Norvell orally moved to withdraw his guilty plea during a hearing. He filed his Motion on May 7, 2010. The court held a hearing and took the Motion under advisement. Subsequently, the court held a sentencing hearing, during which the court denied Norvell’s Motion. This appeal followed.

## DISCUSSION AND DECISION

Norvell asserts that his guilty plea is manifestly unjust because he did not understand the nature of the charges against him and is not guilty.

The statute that governs motions to withdraw guilty pleas provides, in relevant part:

After entry of a plea of guilty . . . the court may allow the defendant by motion to withdraw his plea of guilty . . . for any fair and just reason unless the state has been substantially prejudiced by reliance upon the defendant's plea. . . . The ruling of the court on the motion shall be reviewable on appeal only for an abuse of discretion. However, the court shall allow the defendant to withdraw his plea of guilty . . . whenever the defendant proves that withdrawal of the plea is necessary to correct a manifest injustice.

Ind. Code § 35-35-1-4(b) (1983). A trial court's decision on a request to withdraw a guilty plea is presumptively valid, and a party appealing an adverse decision must prove that the court has abused its discretion. *Davis v. State*, 770 N.E.2d 319, 326 (Ind. 2002). We will not disturb the court's ruling where it was based on conflicting evidence. *Johnson v. State*, 734 N.E.2d 242, 245 (Ind. 2000).

In this case, in the parties' plea agreement Norvell stated that he entered into the agreement as a free and voluntary act and that no one threatened him or promised him anything other than what was set forth in the agreement. During the hearing on Norvell's request to plead guilty, he told the Court that he was twenty-two years old and had no mental illness or mental disabilities. The court informed Norvell that he could speak privately with his attorney at any time. Next, the court reviewed the plea agreement with Norvell, and Norvell agreed that he wanted to plead guilty to four counts of robbery. Norvell also agreed that his guilty plea was the result of his own free choice and decision. Next, Norvell's counsel questioned Norvell about the four counts of robbery, and Norvell

agreed that he had committed the offenses as they were described in the charging information. Specifically, Norvell admitted that he had knowingly taken money from Michael McCord, Snapper Morgan, Ronald Atkins, and Roy Wallace, or from their presence, while he or a companion was armed with a deadly weapon. Norvell agreed that the victims were “drug dealers,” and that he or his companion had taken money from the house. Guilty Plea Hearing Tr. p. 9.

Subsequently, at the hearing on Norvell’s Motion, Norvell testified that he had come to believe that he was not guilty of the robberies because his companion had the gun and performed the robberies, and Norvell testified that he was not in the victims’ house at the time that his companion performed the robberies. Norvell asserted that he had pleaded guilty because he misunderstood the law and thought that he could be found guilty of the offenses even though he was not in the victims’ house at the time that his companion committed the robberies.

There is evidence that contradicts Norvell’s version of how the robberies occurred. During the guilty plea hearing, Norvell admitted that the victims were drug dealers and that he or his companion took money from the victims. Furthermore, the record includes statements from two of the victims, who stated that two men had come into the house and robbed them. One of the victims recognized Norvell because she went to school with Norvell. After the police apprehended Norvell, one of the victims identified Norvell as one of the robbers and stated that Norvell had pointed a handgun at the victims during the robbery. In light of this conflicting evidence, Norvell has failed to demonstrate that withdrawal of his plea is necessary to correct a manifest injustice. *See Johnson*, 734

N.E.2d at 245 (determining that the trial court properly denied the defendant's motion to withdraw guilty plea where there were conflicting versions of the crime). Consequently, the trial court did not abuse its discretion in denying Norvell's Motion.<sup>1</sup>

### CONCLUSION

For the reasons stated above, we affirm the judgment of the trial court.

Affirmed.

ROBB, C.J., and KIRSCH, J., concur.

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<sup>1</sup> Norvell also argues that the State failed to demonstrate that it would be substantially prejudiced by a withdrawal of Norvell's guilty plea. We do not address this issue because Norvell has failed to establish that withdrawal of his plea is necessary to correct a manifest injustice.