



Appellant-defendant Terrence T. Miller appeals the trial court's denial of Miller's request to withdraw his plea of guilty to Armed Robbery,<sup>1</sup> a class B felony. Finding no error, we affirm.

### FACTS

On November 8, 2007, Miller entered a liquor store with a shotgun hidden on his person. He pulled out the shotgun and threatened the store clerk with it, taking \$217.58 and some liquor while holding the clerk at gunpoint.

On November 19, 2007, the State charged Miller with class B felony armed robbery. Miller's first jury trial, which began on July 30, 2008, ended in a hung jury and a mistrial.

Miller's second jury trial took place on September 17-18, 2008. The jury convicted Miller as charged, and the trial court imposed an eighteen-year sentence. Miller appealed, and on October 30, 2009, we reversed based on the prosecutor's use of a demonstrative exhibit during closing argument that had not been admitted as evidence during the trial. Miller v. State, 916 N.E.2d 193 (Ind. Ct. App. 2009), trans. denied.

Miller sought and obtained the recusal of the prosecutor in April 2010. Miller's third jury trial was scheduled to begin on August 18, 2010. On August 4, 2010, Miller pleaded guilty as charged in exchange for a ten-year sentence. Miller stated under oath that he had read the plea agreement carefully before signing it, that he believed it was in his best interest to accept it, that he understood the terms of the plea agreement and the

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<sup>1</sup> Ind. Code § 35-42-5-1.

constitutional rights he was waiving by accepting it, that he had talked with his attorney about his case and his options “many different times,” and that he had discussed the plea offer “at some length” with his attorney. Guilty Plea Tr. p. 13-14. The trial court took the plea under advisement.

At the September 7, 2010, sentencing hearing, Miller orally moved to withdraw his plea. The State objected, and the trial court continued the hearing to allow Miller to file a written motion to withdraw the plea. At the September 14, 2010, hearing on Miller’s motion, Miller explained that he had continued to “reflect” on things since pleading guilty and now felt that he should “fight to the end.” Sent. Tr. p. 6, 10-11. Miller stated that he felt “forced” to plead guilty because he thought he would lose if he went to trial. Id. at 10-11. The trial court denied Miller’s motion, observing that Miller had significant insight into the State’s case against him, that Miller was well positioned to evaluate whether a third trial was in his interest, and that the reasons Miller had given for wanting to withdraw the guilty plea did not demonstrate that a manifest injustice would result from the plea. The trial court accepted the plea and imposed a ten-year sentence. Miller now appeals.

#### DISCUSSION AND DECISION

Miller’s sole argument on appeal is that the trial court erred by denying his request to withdraw the guilty plea. After a guilty plea is entered but before sentence is imposed, a defendant may move to withdraw his guilty plea for any fair and just reason unless the State has been substantially prejudiced by reliance upon the plea. Ind. Code § 35-35-1-

4(b). The trial court shall grant the motion if the defendant proves, by a preponderance of the evidence, that it is necessary to correct a manifest injustice. Id. Absent such a showing, the decision to grant or deny the motion rests within the trial court's sound discretion. Id. Consequently, absent a showing of manifest injustice, we review the trial court's ruling on a motion to withdraw a guilty plea for an abuse of discretion. Id. A trial court's ruling on a motion to withdraw a guilty plea arrives with a presumption in favor of the ruling. Brightman v. State, 758 N.E.2d 41, 44 (Ind. 2001).

Here, the basis for Miller's request to withdraw his plea was that he had continued to "reflect" on things after he pleaded guilty, that he had felt "forced" to take the plea because he believed he would lose at trial, and that he now felt he should continue to "fight to the end." Sent. Tr. p. 6, 10-11. Miller also argues that this was an especially volatile and complex case that left him confused.

As the trial court observed, however, Miller had more knowledge and information from which to make a decision to plead guilty than virtually any other defendant. This case had been pending for almost three years, during which time Miller had the opportunity to view and test the State's evidence during two separate jury trials. Throughout, Miller was represented by counsel, and he acknowledged that he had had multiple, lengthy meetings with his attorney before deciding to plead guilty. He testified under oath that he understood the charges and the possible sentence he faced, that he had read the plea agreement carefully before signing it, and that he was entering into the agreement freely and voluntarily because he believed it was in his best interest.

We do not find that Miller's after-the-fact regrets establish a manifest injustice such that the trial court was required to grant his motion to withdraw the plea. And based on this record, we do not find that the trial court abused its discretion in denying Miller's request to withdraw his guilty plea.

The judgment of the trial court is affirmed.

VAIDIK, J., and BARNES, J., concur.