

John C. Bradley, IV, appeals from his conviction of Residential Entry,¹ a class D felony. He presents the following issue for review: Did the trial court abuse its discretion by denying Bradley's motion to withdraw his plea of guilty?

We affirm.

On December 8, 2009, the State charged Bradley with class C felony burglary and class D felony criminal mischief for breaking into and damaging the home of Wayne Fox. The State also charged him with class D felony residential entry with respect to the home of Vernon Hall. Both incidents allegedly occurred on the same night. On January 28, 2010, the matter was set for a jury trial to commence on May 11. Bradley could not afford to post bond, so he remained in jail awaiting trial.

On February 17, Bradley's counsel filed a motion to withdraw based upon Bradley's desire to represent himself. Thereafter, Bradley filed a flurry of pro se motions, including a request for a speedy trial. The trial court scheduled a hearing on all pending motions for February 25.

At the hearing, Bradley acknowledged that counsel would do a better job at trial but that he strongly desired a speedy trial because he had a child on the way. Bradley's counsel, however, indicated his belief that the current trial setting of May 11 was most appropriate for purposes of Bradley's legal defense. The trial court explained to Bradley that the early trial setting would be May 3, which was very close to the already-scheduled date. Bradley stood

¹ Ind. Code Ann. § 35-43-2-1.5 (West, Westlaw through 2011 Pub. Laws approved & effective through 2/24/2011).

firm that he would rather have the earlier date because his girlfriend was pregnant and due April 11. Further, Bradley expressed his innocence on a number of occasions and indicated, “the evidence...doesn’t lead to me.”² *Transcript* at 22. After clarifying that the only reason Bradley wanted to proceed pro se was to have the trial set eight days earlier, the trial court denied the motion to withdraw and then deferred to defense counsel’s strategic decision regarding the speedy-trial issue.

At the conclusion of the hearing, the trial court heard evidence from Bradley regarding his oral request for a bond reduction. After Bradley’s testimony, the State sought a continuance to review the matter. The court gave the State a week and scheduled the remainder of the bond reduction hearing for March 4.

The parties returned on March 4 having entered into a plea agreement. Pursuant to the agreement, Bradley pleaded guilty to residential entry (with one small caveat addressed below), and the State dismissed the other two charges. The agreement also provided for a substantial bond reduction and a lengthy delay in sentencing.

In pleading guilty, Bradley wanted to make clear that his role was one of an accomplice only. Specifically, he admitted to aiding Tony Jacobs break into Hall’s residence by coming to the home, picking up Jacobs, and helping him flee the scene. Bradley acknowledged he understood that aiding Jacobs made him equally culpable under the law even if he did not go into the residence. At the conclusion of the hearing, the trial court

² Bradley explained, “there’s nothing in here that says that, uh, that I inten-, knowingly or intentionally broke into this house. And this letter here states that I had nothing to do with this Burglary or Criminal Mischief.” *Transcript* at 9. Though not clear, it appears that Bradley’s first reference is to the probable cause affidavit, which did not indicate that Bradley actually entered Vernon Hall’s residence. Further, at a later

found that Bradley's plea was freely, knowingly, and voluntarily entered and that a factual basis existed for it. Pursuant to the parties' agreement, the trial court scheduled sentencing for May 27, 2010, and reduced Bradley's bond from \$25,000 to \$2500. Bradley posted \$250 to secure his release on bond that same day.

Bradley failed to appear at the sentencing hearing on May 27, and a warrant was issued for his arrest. On July 21, 2010, while incarcerated in the Kosciusko County Jail on a new class A felony charge, Bradley filed a pro se motion to withdraw plea stating, "Defendant feels it is in his best interest to withdraw his plea of guilty." *Appendix* at 50. The trial court issued a transport order and scheduled the matter for hearing on July 29.

At the hearing on July 29, Bradley acknowledged that he had been fully advised and questioned by the trial court to determine whether the plea was being knowingly and voluntarily entered into. Bradley explained, however, that at the time he entered his guilty plea, "I kind of felt pressured into it." *Transcript* at 43. The State objected to Bradley's motion because he had been fully advised, the plea was entered knowingly and voluntarily, and he had benefited greatly from the plea. The trial court continued the hearing in order to review the transcript of the guilty plea hearing to assure Bradley had been properly advised.

On September 9, the hearing continued on Bradley's motion to withdraw plea. The court indicated that its review of the plea hearing revealed that the guilty plea was knowingly and voluntarily entered into. Bradley responded that he only pleaded guilty in order to be able to attend the birth of his child and get out of jail. After denying Bradley's motion to

hearing, Bradley referenced a letter from his codefendant, Tony Jacobs, in which Jacobs indicated Bradley was not involved in the burglary or criminal mischief at Wayne Fox's house.

withdraw his guilty plea, the court proceeded with the sentencing hearing. The trial court sentenced Bradley to one and one-half years in prison, suspending all but 180 days to probation.³ Bradley now appeals claiming that the trial court abused its discretion in denying his motion to withdraw guilty plea.

Motions to withdraw guilty pleas are governed by Ind. Code Ann. § 35-35-1-4 (West, Westlaw through 2011 Pub. Laws approved & effective through 2/24/2011). After the plea of guilty but before sentencing, a court may grant the motion for “any fair or just reason.” *Id.* The trial court, however, is required to grant the motion to prevent “manifest injustice” and is required to deny the motion when the State would be “substantially prejudiced.” *Id.* Our Supreme Court has explained appellate review as follows:

“The trial court’s ruling on a motion to withdraw a guilty plea arrives in our Court with a presumption in favor of the ruling. One who appeals an adverse decision on a motion to withdraw must therefore prove the trial court abused its discretion by a preponderance of the evidence. We will not disturb the court’s ruling where it was based on conflicting evidence.”

Smallwood v. State, 773 N.E.2d 259, 264 (Ind. 2002) (quoting *Johnson v. State*, 734 N.E.2d 242, 245 (Ind. 2000)) (internal citations omitted). “In determining whether a trial court has abused its discretion in denying a motion to withdraw a guilty plea, we examine the statements made by the defendant at his guilty plea hearing to decide whether his plea was offered ‘freely and knowingly.’” *Brightman v. State*, 758 N.E.2d 41, 44 (Ind. 2001) (quoting *Coomer v. State*, 652 N.E.2d 60, 62 (Ind. 1995)).

³ As the trial court noted, the executed portion of the sentence had been largely already served. With good time credit, Bradley had to serve only three more days.

As found by the trial court and not contested by Bradley, the guilty plea in this case was knowingly and voluntarily entered into. *See Coomer v. State*, 652 N.E.2d at 62 (“concerns about injustice carry greater weight when accompanied by credible evidence of involuntariness, or when the circumstances of the plea reveal that the rights of the accused were violated”). Further, not only did Bradley admit to acts establishing a factual basis for his plea, he was adamant at the plea hearing that the factual basis reflect his role as an accomplice to the crime rather than a principal. His previous claims of innocence appeared to center on the fact that he did not enter Hall’s residence with Jacobs. At the plea hearing, however, Bradley was carefully questioned concerning his understanding that aiding Jacobs did not require entry into the home and that in aiding Jacobs he was just as culpable in the eyes of the law. As set forth above, Bradley acknowledged that he understood this.

The record further reflects that Bradley waited more than four months to seek to withdraw his guilty plea, and said motion came only after he failed to appear at the hearing on May 27 and had been reincarcerated in another county on a class A felony charge. In other words, Bradley came to regret his guilty plea after enjoying the benefits of said plea and only once he was forced to confront the consequences of that plea under changed circumstances in his life.

The trial court acted within its discretion to credit Bradley’s admission of guilt at the guilty plea hearing and to deny his subsequent request to withdraw the plea several months later. *See Carter v. State*, 739 N.E.2d 126, 130 (Ind. 2000) (“[a]dmissions of guilt and assertions of innocence come in many shades of gray, and the trial judge is best situated to assess the reliability of each”).

Judgment affirmed.

BAILEY, J., and BROWN, J., concur.