

OHIO COURT OF APPEALS, FIFTH APPELLATE DISTRICT, MUSKINGUM COUNTY

State v. Haser

2022-Ohio-4375 (Ohio Ct. App. 2022) · No. CT2022-0074 · Decided December 6, 2022

SUMMARY

The Fifth District Court of Appeals of Ohio affirmed the Muskingum County Court of Common Pleas' denial of Donald Haser's post-sentence motion to withdraw his guilty plea. The court held that Haser did not present sufficient evidentiary material to establish manifest injustice or require an evidentiary hearing, and that findings of fact and conclusions of law were not required. The court also held that his challenge to the acceptance of the guilty plea was barred by res judicata.

CASE DETAILS

COURT	Ohio Court of Appeals, Fifth Appellate District, Muskingum County
WRITING FOR THE COURT	John W. Wise, J.; Earle E. Wise, Jr., P.J.; William B. Hoffman, J.
JURISDICTION	Ohio
DECIDED	December 6, 2022
DOCKET	CT2022-0074
DISPOSITION	affirmed
PROCEDURAL POSTURE	Donald Haser appealed the denial of his post-sentence motion to withdraw his guilty plea, challenging the lack of an evidentiary hearing, the lack of findings of fact and conclusions of law, and the validity of the original guilty plea.
STANDARD OF REVIEW	The denial of a post-sentence motion to withdraw a guilty plea is reviewed for abuse of discretion. The decision whether to hold an evidentiary hearing is also left to the trial court's sound discretion.
PRECEDENTIAL VALUE	published Ohio Court of Appeals opinion
PARTIES	Donald Haser v. State of Ohio

TOPICS

- post-conviction relief
- criminal procedure
- ineffective assistance
- appellate procedure
- due process

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by denying Haser's post-sentence motion to withdraw his guilty plea without an evidentiary hearing based on alleged ineffective assistance of counsel.
2. Whether the trial court was required to issue findings of fact and conclusions of law when denying the motion to withdraw the guilty plea.
3. Whether Haser's challenge to the trial court's original acceptance of his guilty plea was barred by res judicata when raised in an appeal from the denial of the motion to withdraw the plea.

HOLDINGS

1. An evidentiary hearing on a post-sentence motion to withdraw a guilty plea is required only when the factual allegations, if accepted as true, would require withdrawal of the plea. Because Haser offered only uncorroborated, self-serving assertions that counsel was ineffective and did not provide sufficient evidentiary-quality materials showing manifest injustice, the trial court acted within its discretion in denying the motion without a hearing.
2. Crim.R. 32.1 does not require a trial court to issue findings of fact and conclusions of law when ruling on a motion to withdraw a guilty plea.
3. A challenge to the validity of the original guilty plea that could have been raised on direct appeal is barred by res judicata when raised in an appeal from the denial of a later motion to withdraw the plea.

KEY QUOTATIONS

“Under Crim.R. 32.1, “[a] motion to withdraw a plea of guilty or no contest may be made only before sentence is imposed; but to correct a manifest injustice the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw his or her plea.”” (§19)

“Under the doctrine of res judicata, “a final judgment of conviction bars a convicted defendant who was represented by counsel from raising and litigating in any proceeding except an appeal from that judgment, any defense or any claimed lack of due process that was raised or could have been raised by the defendant at the trial, which resulted in that judgment of conviction, or on an appeal from that judgment.”” (§35)

FACTUAL BACKGROUND

Police responded to a Zanesville residence after a report that Haser was shooting A.A. with a BB gun and was on the trespass list for the residence. Officers observed injuries to A.A., who reported that Haser had shot her and dragged her through the basement; a witness also described Haser forcing A.A. into the basement, hitting her, and pushing her. Haser had six prior domestic-violence convictions, pleaded guilty to aggravated burglary and domestic violence under a negotiated plea agreement, and was sentenced to consecutive terms totaling a minimum of fourteen years and a maximum of nineteen and one-half years.

PROCEDURAL HISTORY

Haser was indicted in the Muskingum County Court of Common Pleas for aggravated burglary, domestic violence, kidnapping, and felonious assault. Pursuant to a negotiated plea agreement, he pleaded guilty to aggravated burglary and domestic violence and received consecutive prison terms. After this Court affirmed his conviction and sentence on direct appeal, Haser moved to withdraw his guilty plea; the trial court denied the motion, and this appeal followed.

DISPOSITION

affirmed

CASES CITED

- State v. Smith, 2019-Ohio-3642 (Ohio Ct. App. 1st Dist.)
- State v. Aleshire, 2010-Ohio-2566 (Ohio Ct. App. 5th Dist.)
- State v. Smith, 49 Ohio St. 2d 261, 361 N.E.2d 1324 (1977)
- State v. Hutchinson, 2018-Ohio-200, 104 N.E.3d 91 (Ohio Ct. App. 5th Dist.)
- State v. Patterson, 2004-Ohio-1569 (Ohio Ct. App. 5th Dist.)
- State ex rel. Chavis v. Griffin, 91 Ohio St. 3d 50, 741 N.E.2d 130 (2001)
- State v. Perry, 10 Ohio St. 2d 175, 226 N.E.2d 104 (1967)