

SUPREME COURT OF KANSAS

State v. Miles

300 Kan. 1065 (2014) · No. No. 110,128 · Decided November 26, 2014

SUMMARY

The Kansas Supreme Court affirmed the denial of Tracie Miles' postsentencing motion to withdraw no-contest pleas to premeditated first-degree murder, aggravated robbery, and forgery. The court held that any prejudice from counsel's alleged misinformation about the charges and possible penalties was cured by the trial judge's thorough plea colloquy. Because Miles failed to establish manifest injustice, the district court did not abuse its discretion.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Beier, J.; Michael J. Malone, Senior Judge, assigned
JURISDICTION	Kansas
DECIDED	November 26, 2014
DOCKET	No. 110,128
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from the denial of a postsentencing motion to withdraw no-contest pleas.
STANDARD OF REVIEW	A postsentencing motion to withdraw a plea is reviewed under the manifest-injustice standard, and the district court's ruling is reviewed for abuse of discretion. Abuse of discretion may arise from an unreasonable judicial action, an error of law, or an error of fact.
PRECEDENTIAL VALUE	Published Kansas Supreme Court opinion; precedential.
PARTIES	Tracie Miles v. State of Kansas

TOPICS

- plea bargaining
- ineffective assistance
- criminal procedure
- appellate procedure
- standard of review

PRACTICE AREAS

- criminal procedure
- plea bargaining
- ineffective assistance of counsel
- appellate procedure

QUESTIONS PRESENTED

1. Whether Miles established manifest injustice warranting withdrawal of her no-contest pleas after sentencing.
2. Whether alleged misinformation or inadequate advice from counsel required plea withdrawal when the district court fully corrected or clarified the information before accepting the pleas.
3. Whether the district court abused its discretion in denying the postsentencing motion to withdraw pleas.

HOLDINGS

1. A criminal defendant is not entitled to withdraw a no-contest plea after sentencing for manifest injustice when the alleged deficiency in counsel's performance was fully corrected by the court before the plea was entered.
2. The denial of a postsentencing motion to withdraw a plea is reviewed for abuse of discretion, and reversal is warranted when the district court acts unreasonably, applies an erroneous legal conclusion, or relies on a factual finding unsupported by substantial competent evidence.

KEY QUOTATIONS

“A criminal defendant is not entitled to withdraw pleas of no contest after sentencing for manifest injustice, when the deficiency in counsel's performance she alleges was fully corrected by the court before the pleas were entered.” (300 Kan. at 1065)

“In short, even if Miles' attorney had previously misinformed or failed to fully inform Miles of the charges and possible penalties, any prejudice from that error was eliminated by the judge's thoroughness at the plea hearing.” (300 Kan. at 1067)

FACTUAL BACKGROUND

Miles entered no-contest pleas to premeditated first-degree murder, aggravated robbery, and forgery. She later alleged that counsel told her she had no chance of acquittal and would receive the death penalty or a hard 40 life sentence if she went to trial, and that she did not understand the possible sentence resulting from her pleas. At the plea hearing, however, the district judge reviewed the charges, plea agreement, plea-negotiation results, and possible sentences, and Miles stated that she understood the information.

PROCEDURAL HISTORY

Miles pleaded no contest to premeditated first-degree murder, aggravated robbery, and forgery and was sentenced to life imprisonment with no parole eligibility for 25 years, followed by consecutive 51-month and 9-month sentences. Nearly 11 years after sentencing, she moved to withdraw her pleas, alleging ineffective assistance and misunderstanding of the charges and potential sentences. After an evidentiary hearing, the Reno District Court denied the motion, and the Kansas Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Szczygiel, 294 Kan. 642, 643, 279 P.3d 700 (2012)
- State v. Bricker, 292 Kan. 239, 244, 252 P.3d 118 (2011)
- State v. Ward, 292 Kan. 541, 550, 256 P.3d 801 (2011), cert. denied, 132 S. Ct. 1594 (2012)
- State v. Green, 283 Kan. 531, 545-46, 153 P.3d 1216 (2007)
- State v. Edgar, 281 Kan. 30, 38, 127 P.3d 986 (2006)

OPINION

BEIER, J.

IN THE SUPREME COURT OF THE STATE OF KANSAS No. 110,128 STATE OF KANSAS, Appellee, v. TRACIE MILES, Appellant. SYLLABUS BY THE COURT A criminal defendant is not entitled to withdraw pleas of no contest after sentencing for manifest injustice, when the deficiency in counsel's performance she alleges was fully corrected by the court before the pleas were entered.

Appeal from Reno District Court; TRISH ROSE, judge. Opinion filed November 26, 2014. Affirmed. Lydia Krebs, of Kansas Appellate Defender Office, was on the brief for appellant. Keith E. Schroeder, district attorney, and Derek Schmidt, attorney general, were on the brief for appellee.

The opinion of the court was delivered by BEIER, J.: This is a direct appeal from denial of appellant Tracie Miles' postsentencing motion to withdraw her pleas of no contest to premeditated first-degree murder, aggravated robbery, and forgery. Miles was sentenced to life in prison, with no parole eligibility for 25 years, followed by consecutive 51-month and 9-month sentences.

1 Miles argued that she should be permitted to withdraw her pleas, on the basis of the motion filed nearly 11 years after sentencing, because her lawyer told her she had no chance of acquittal and would receive the death penalty or a hard 40 life sentence if she exercised her right to jury trial. Miles also alleged that she did not understand the length of the prison sentence to which she could be subject if she entered the pleas.

The district judge conducted an evidentiary hearing on the motion to withdraw pleas, at which Miles testified that she did not learn until after her pleas were entered that the State had never filed a capital murder charge against her.

The judge denied the motion. Miles argues on this appeal that the district judge abused her discretion. A motion to withdraw plea filed after sentencing is subject to a manifest injustice standard. K.S.A. 2013 Supp. 22-3210(d)(2). An appellate court does not reverse a district judge's ruling on such a motion absent an abuse of discretion. See State v. Szczygiel, 294 Kan.

642, 643, 279 P.3d 700 (2012); State v. Bricker, 292 Kan. 239, 244, 252 P.3d 118 (2011). We may conclude there has been an abuse of discretion on one or more of three bases: (1) the judicial

action is arbitrary, fanciful, or unreasonable, i.e., no reasonable person would have taken the view adopted by the trial court; (2) the judicial action is based on an error of law, i.e., the discretion is guided by an erroneous legal conclusion; or (3) the judicial action is based on an error of fact, i.e., substantial competent evidence does not support a factual finding on which a prerequisite conclusion of law or the exercise of discretion is based.

See *State v. Ward*, 292 Kan. 541, 550, 256 P.3d 801 (2011), cert. denied 132 S. Ct. 1594 (2012). Further, a defendant's proof of prejudicial ineffective assistance of counsel may contribute to a conclusion that manifest injustice occurred. See *State v. Green*, 283 Kan. 531, 545-46, 153 P.3d 1216 (2007); *State v. Edgar*, 281 Kan. 30, 38, 127 P.3d 986 (2006). 2 The transcript of Miles' plea hearing persuades us that Miles is not entitled to relief on appeal.

The transcript demonstrates that the district judge who accepted Miles' pleas first engaged in a long colloquy with Miles, including recitation and confirmation of the results of plea negotiations entered into with the State and a verbatim review of the contents of a written plea agreement. This colloquy fully informed Miles of the outstanding charges and the possible sentences.

Miles expressed on the record that she understood all of this information, including that the State had dismissed four other charges and had agreed not to seek a hard 40 sentence and would stand mute on the subject of sentence altogether.

In short, even if Miles' attorney had previously misinformed or failed to fully inform Miles of the charges and possible penalties, any prejudice from that error was eliminated by the judge's thoroughness at the plea hearing.

The district judge did not abuse her discretion in refusing to allow Miles to withdraw her pleas because of manifest injustice. The district court decision is affirmed. MICHAEL J. MALONE, Senior Judge, assigned. 1 1 REPORTER'S NOTE: Senior Judge Malone was appointed to hear case No. 110,128 to fill the vacancy on the court created by the appointment of Justice Nancy Moritz to the United States 10th Circuit Court of Appeals.