

COURT OF APPEALS OF OHIO, THIRD APPELLATE DISTRICT, DEFIANCE COUNTY

State v. Perez

2026-Ohio-1812 · No. 4-25-19 · Decided May 18, 2026

SUMMARY

The Ohio Third District Court of Appeals affirmed the denial of Orlando Perez Jr.'s post-sentence motion to withdraw his guilty pleas. The court held that Perez's claims concerning misinformation about Major Drug Offender specifications and ineffective assistance of counsel were barred by res judicata because they could have been raised in his direct appeal. The court concluded that the trial court did not abuse its discretion under Ohio Criminal Rule 32.1.

CASE DETAILS

COURT	Court of Appeals of Ohio, Third Appellate District, Defiance County
WRITING FOR THE COURT	William R. Zimmerman, P.J.; Mark C. Miller, J.; John R. Willamowski, J.
JURISDICTION	Ohio Court of Appeals, Third Appellate District, Defiance County
DECIDED	May 18, 2026
DOCKET	4-25-19
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed the denial of his post-sentence motion to withdraw guilty pleas under Ohio Criminal Rule 32.1.
STANDARD OF REVIEW	Denial of a motion to withdraw a guilty plea is reviewed for abuse of discretion; an abuse of discretion is a decision that is unreasonable, arbitrary, or unconscionable.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Orlando Perez Jr. v. State of Ohio

TOPICS

- post-conviction relief
- plea bargaining
- ineffective assistance
- criminal procedure
- appellate procedure

PRACTICE AREAS

criminal procedure

post-conviction relief

plea withdrawal

ineffective assistance of counsel

Ohio appellate procedure

QUESTIONS PRESENTED

1. Whether res judicata barred Perez's post-sentence Crim.R. 32.1 claims that his guilty pleas were defective because of alleged misinformation about Major Drug Offender specifications.
2. Whether res judicata barred Perez's ineffective-assistance-of-counsel claim based on matters contained in the trial record.
3. Whether the trial court abused its discretion by denying Perez's post-sentence motion to withdraw his guilty pleas.

HOLDINGS

1. Res judicata bars claims raised in a Crim.R. 32.1 post-sentence motion when the claims were or could have been raised on direct appeal. Because Perez's defective-plea and ineffective-assistance claims were rooted in the trial record and could have been raised on direct appeal, he could not raise them in his post-sentence motion.
2. The trial court did not abuse its discretion by denying Perez's post-sentence motion to withdraw his guilty pleas because his claims were barred by res judicata.

KEY QUOTATIONS

“A motion to withdraw a plea of guilty or no contest may be made only before sentence is imposed; but to correct manifest injustice the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw his or her plea.” (¶ 8)

“A manifest injustice is a clear or openly unjust act and relates to a fundamental flaw in the plea proceedings resulting in a miscarriage of justice.” (¶ 8)

“a postsentence withdrawal motion is allowable only in extraordinary cases.” (¶ 8)

“Res judicata bars the assertion of claims against a judgment of conviction in a motion under Crim.R. 32.1 when those claims were or could have been raised on direct appeal.” (¶ 9)

FACTUAL BACKGROUND

In January 2017, Perez was convicted of two first-degree felony counts of trafficking in cocaine and sentenced to an aggregate fourteen-year prison term. He later argued that his guilty pleas were not knowing, intelligent, and voluntary because the trial court allegedly misstated the potential maximum penalties for Major Drug Offender specifications at arraignment. He also claimed ineffective assistance because trial counsel failed to correct the alleged misstatement and failed to ensure that the pleas were knowing, intelligent, and voluntary.

PROCEDURAL HISTORY

Perez pleaded guilty to two counts of trafficking in cocaine and received an aggregate fourteen-year prison sentence. The court of appeals affirmed his conviction and sentence on direct appeal. After several unsuccessful post-conviction motions, Perez filed a post-sentence motion to withdraw his guilty pleas, which the trial court denied after a hearing; the trial court also denied reconsideration. The court of appeals affirmed.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The cause was remanded to the trial court for execution of the judgment for costs. The clerk was directed to certify the judgment entry and opinion to the trial court as the mandate under App.R. 27 and serve copies on the parties under App.R. 30.

CASES CITED

- State v. Perez, 2018-Ohio-635 (3d Dist.)
- State v. Streeter, 2009-Ohio-189, ¶¶ 12-13 (3d Dist.)
- State v. Adams, 62 Ohio St.2d 151, 157-158 (1980)
- State v. Straley, 2019-Ohio-5206, ¶¶ 14, 23
- State v. Smith, 49 Ohio St.2d 261, 264 (1977)
- State v. Cagle, 2020-Ohio-316, ¶ 4 (9th Dist.)
- State v. Cartledge, 2021-Ohio-3787, ¶¶ 9, 11 (3d Dist.)
- State v. Price, 2024-Ohio-5823, ¶¶ 16, 19-20 (10th Dist.)