FILED
02/19/2020
Clerk of the
Appellate Courts

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON
Assigned on Briefs November 5, 2019

STATE OF TENNESSEE v. REGINALD PARNELL

Appeal from the Criminal Court for Shelby County
No. 15-01358 W. Mark Ward, Judge

No. W2019-00247-CCA-R3-CD

On March 24, 2015, a Shelby County Grand Jury indicted the Defendant-Appellant, Reginald Parnell, for two counts of aggravated assault. On May 21, 2018, the day he was set for trial, the Defendant accepted a plea agreement and entered an Alford plea to each count of aggravated assault in exchange for a concurrent term of three years' probation.[1] On June 15, 2018, represented by newly retained counsel, the Defendant filed a motion to withdraw his guilty plea, which was denied by the trial court following a hearing. On appeal, the Defendant argues that the trial court abused its discretion in denying the Defendant's motion to withdraw his guilty plea. Upon our review, we affirm.

Tenn. R. App. P. 3, Appeal as of Right; Judgments of the Criminal Court Affirmed

CAMILLE R. MCMULLEN, J., delivered the opinion of the court, in which JOHN EVERETT WILLIAMS, P.J., and ROBERT L. HOLLOWAY, JR., J., joined.

Robert L. Sirianni, Winter Park, Florida, for the Defendant-Appellant, Reginald Parnell.

Herbert H. Slatery III, Attorney General and Reporter; Clark B. Thornton, Senior Assistant Attorney General; Amy P. Weirich, District Attorney General; and Holly Brewer Palmer, Assistant District Attorney General, for the Appellee, State of Tennessee.

OPINION

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[1] A criminal defendant may plead guilty pursuant to a "best interest" plea as set forth in North Carolina v. Alford, 400 U.S. 25, 91 S. Ct. 160, 27 L.Ed.2d 162 (1970). In such a case, the defendant pleads guilty while maintaining his factual innocence of the crime. See State v. Albright, 564 S.W.3d 809, 817, fn. 5 (Tenn. 2018), cert. denied, 139 S. Ct. 2746, 204 L. Ed. 2d 1134 (2019)(explaining that the only difference between a *nolo contendere plea* and an Alford plea is that an Alford plea may be used as an admission of guilt in a subsequent civil proceeding).

Over the course of the proceedings in this case, the Defendant has been represented by three different counsel. He was represented by first counsel from the case inception through the first settlement offer, second counsel up to and including the entry of the guilty plea, and third counsel for the withdrawal of his guilty plea and the hearing on the same.

At a November 8, 2016 report date, the State conveyed an offer to settle the Defendant's case. First counsel advised the court that the State had spoken to the witnesses, who were "on board" and "ready to proceed." First counsel then advised the court that it wanted to voir dire the Defendant regarding his decision concerning the offer. During this voir dire, the Defendant acknowledged that first counsel advised him of the State's offer, that it was for six-months on a misdemeanor assault, and that he would receive judicial diversion upon the court's approval. Asked his decision on the offer, the Defendant replied, "Yeah, could I have a little time to think about it?" The court obliged and reset the matter for a few weeks. On July 31, 2017, first counsel filed a motion to withdraw from representing the Defendant based on a conflict, which was granted by the trial court on September 1, 2017. On the same day, an order allowing for the substitution of second counsel was entered.

On May 21, 2018, under the advice of second counsel, the Defendant entered a guilty plea to the offenses as charged in exchange for three years "upfront" probation. He was also ordered to have no contact with Angelica Griffin or Gregory Griffin and cause no harm to Skyler Butler, who is the Defendant's cousin. The State presented the facts supporting the Defendant's guilty plea as follows:

> That on November 28th of 2013, Skyler Butler reported to Officer…that her cousin, [the Defendant][,] arrived at the Steak House, got out of his vehicle[,] and pointed a pistol at her friends, Angelica Griffin. Skyler stated that she jumped in front of Angelica Griffin and [the Defendant] lowered the gun for a second but then grabbed her and raised the gun again and pointed the pistol to her chest.
>
> [Angelica] Griffin stated that [the Defendant] was angry with her brother, Gregory Griffin[,] over an employment issue. Gregory Griffin witnessed the event from his vehicle and believed that [the Defendant] was actually after him.
>
> Both Skyler Butler and Angelica Butler--I'm sorry, both Skyler Butler and Angelica Griffin said that they were in fear for their lives when the [D]efendant raised the gun at them.

Second counsel stipulated to these facts, but he stated, "[H]ad the matter gone to trial [he] would have maintained a different tact[.]" During the plea colloquy with the trial court, the Defendant expressed his confusion regarding the type of guilty plea he was entering and wanted second counsel to clarify. Second counsel explained that they had discussed entering an Alford plea, and the trial court further clarified that this meant that the Defendant was pleading guilty to the offenses as charged, that this was a "best-interest" guilty plea, and that the Defendant was "not necessarily admitting that [he] did it." The Defendant acknowledged that he understood, and second counsel subsequently wrote on the guilty plea form, "Alford v. N.C.." The trial court reviewed the Defendant's constitutional rights with him and the Defendant acknowledged that he understood. The trial court subsequently accepted the Defendant's plea of guilty and sentenced him accordingly.

Represented by newly retained third counsel, on June 15, 2018, the Defendant filed a motion to withdraw his guilty plea, arguing in pertinent part, as follows:

> [The Defendant] was expecting to go to trial. The information and events that occurred on his trial date led him to believe that he would be going to jail for up to 6 years or accepting upfront probation. It was his understanding that he had to make this choice immediately. [The Defendant] did not have sufficient time to think through his known options and was unaware of all of his options. Therefore, [the Defendant] did not knowingly and voluntarily enter a guilty plea.

The trial court conducted a hearing on the motion to withdraw guilty plea on November 19, 2018. The Defendant testified and confirmed that he had been previously represented by first counsel, who had to withdraw because of a conflict. Although he was uncertain of the exact date, he hired second counsel sometime thereafter and a trial date had already been set. A trusted friend recommended second counsel to the Defendant, and their first meeting was at the location of the alleged offense, the parking lot of Ruth's Chris Steak House. As part of his payment to second counsel, the Defendant believed second counsel would investigate and obtain videotape footage from a wine and liquor store in the same parking lot as Ruth's Chris, a Regions Bank a quarter of a mile away, and Bank of America. Even if the cameras did not capture the actual event, the Defendant believed the footage to be important to what occurred after the events. The Defendant claimed that second counsel failed to investigate and obtain the videos. The Defendant never received the videos and was unaware if they had been subpoenaed.

The Defendant told second counsel his version of everything that happened on the day of the offense, and he provided him with the names of potential witnesses. The

Defendant informed second counsel about a civil lawsuit that he had filed against Gregory Griffin over an employment issue, which he believed was the reason the criminal charges were brought against him. The Defendant said the victims were trying to "bribe [him] into dropping [his] civil case[.]" He did not know Angelica Griffin before the incident, but he later found out that she was Gregory Griffin's sister and that she told the Defendant's aunt that they would drop the criminal charges if the Defendant dropped the civil lawsuit. The Defendant said that he provided all of this information to trial counsel. He also said that no investigator contacted any of these witnesses on his behalf. He said trial counsel "didn't do anything for [him] basically."

The Defendant stated that Skylar Butler was "supposedly" around the restaurant parking lot with Gregory Griffin on the night of the offense. He described Skylar Butler as "[l]ike a little sister to [him][,]" and he said he helped raise her. Skylar Butler had an "on and off relationship" with Gregory Griffin, and they had a child together. The Defendant was unaware of any reports from an investigator regarding this child. He testified that second counsel told him that the information about the civil lawsuit could help him with a jury and that the videos from the restaurant would prove his innocence. The Defendant testified that he called second counsel the Friday before his trial to discuss when his trial would begin and which witnesses he needed to bring with him. He said second counsel told him "That [he] need[ed] to bring the rest of [his] money in or [he would] be locked up." The Defendant stated that Skylar Butler told him that she did not want to testify, and he believed that his case would be dismissed.

The Defendant said that when he came to court the Monday morning of his trial, "everything was just thrown on [him] within 20 minutes." He believed that his trial would start on a Wednesday, and "Monday and Tuesday would be prep for the trial." The Defendant had limited involvement with the criminal justice system and was unaware how a trial was conducted. When he came to court on Monday morning, second counsel told him that he would have to make a decision. Second counsel told him that he did not "have a shot" because the State had six witnesses while he only had four witnesses. The Defendant's witnesses included his mother, his fiancée, his aunt, and his brother.

When the Defendant initially explained his theory of his case to second counsel, second counsel told him that there were "loopholes" that could help him out at trial. However, on the day of trial, second counsel told the Defendant that he should not go to trial. Second counsel also told the Defendant that he would not have to worry about the felony charge on his record because the Defendant was self-employed. Contrary to this advice, the Defendant said the felony conviction had affected his business. He agreed that the trial court went through his rights with him when he pled guilty. On cross-

examination, the Defendant stated that none of his witnesses were present at Ruth's Chris at the time he was accused of pointing a gun at Angelica Griffin and Butler.

The trial court questioned the Defendant extensively about his decision to plead guilty, and the Defendant said, "I was really just coached into pleading guilty. I really didn't want to plead guilty." The Defendant also stated,

> I just feel like [second counsel] used the situation and circumstances that I was in due to the previous attorney, he used that against me to force me to try to do things that he wanted me to do. I just felt from what I experienced in seeing how you operate your courtroom, I just really felt like I had a good chance of going to jail if I say I'm not happy with my attorney. And that's the only reason…

The Defendant said he "was so afraid[,]" and he "didn't know what [he] was doing[.]" He admitted that he knew he was pleading guilty, and he knew that he could have gone to trial instead. He also said that the trusted friend who recommended second counsel told him that second counsel was not ready for the Defendant's trial. The State informed the trial court that the date of the Defendant's guilty plea marked roughly the 29th setting of his case.

Second counsel testified that he had practiced criminal defense law for 26 years. He received notice from first counsel that the Defendant was going to contact him about representation. The Defendant contacted second counsel, and they met in second counsel's office. Second counsel met the Defendant in the parking lot of Ruth's Chris and noted several cameras in the area surrounding the parking lot. Second counsel did not believe that these cameras would have accurately captured the event from the day of the offense. Second counsel requested the video footage from Ruth's Chris, but they did not have it. Second counsel did not recall if the discovery he received from the State mentioned a video from Ruth's Chris. He stated that the Defendant believed that someone had gone to Ruth's Chris and made the video unavailable to him.

Second counsel had "several conversations" with the Defendant. He told him that he needed all of the witnesses that the Defendant wanted him to subpoena "at least two to three weeks prior to the trial date." Second counsel said the Defendant did not give him any of this information until the Friday afternoon before trial, so he did not subpoena any defense witnesses. Second counsel was aware of the Defendant's civil case with Gregory Griffin. He said that, when he first took over the Defendant's case, it seemed like a "he said/she said" case, but he later discovered more witnesses for the State. Many of the witnesses were related, and second counsel was prepared to cross-examine these witnesses about the potential bias. Although the Defendant told second counsel that

Skylar Butler was not going to testify against him, the State advised second counsel the Friday before trial that she would testify. Second counsel was also concerned about two of the State's eyewitnesses who would have testified that the Defendant had a gun in the parking lot. Second counsel discussed all of this with the Defendant. Second counsel denied telling the Defendant that he would be locked up if he did not pay him the rest of his money.

Second counsel recalled that the Defendant's trial date was set on a date when the Defendant was present in court. Second counsel did not know what the Defendant meant by "trial week." Second counsel denied giving the Defendant any indication that the trial would not start until Wednesday, and he opined the Defendant may have confused this with the day he would testify. He told the Defendant to clear out his week for the trial. He also told the Defendant that the 911 tapes, which were damaging to their case, would likely be admitted under the excited utterance exception.

When second counsel began representing the Defendant, he was advised by the State that there would be no more settlement offers for the Defendant. The State also told second counsel that the Defendant would not be given the same offer from November, 2016 and that the Defendant would have to plead as charged. On the day of trial, second counsel met with the Defendant and checked in with the State. Second counsel said that when he asked the Defendant why he had not brought any witnesses with him to court, the Defendant started to cry and said his family had abandoned him. Second counsel recalled that the State presented the three-year probation offer to the Defendant around 11:00 or 11:15 a.m. that morning, and they "worked on it for about an hour." The jury had lined up in the hallway for the trial, and there was a time constraint on the Defendant's case. Second counsel stated that his discussions with the Defendant about the plea offer were as follows:

> As I recall, [the Defendant], the State's offer came to me. I took it back to him. Took him off to the side where we could talk in private. Explained to him what the offer was, explained to him what he was charged again, explained to him what he was looking at. Explained to him that given the fact that we have this offer of upfront probation, he had the ability to control what happened, the outcome of the case. But that's okay. If he didn't want to take it we're still set up for trial. The jury would still be available, the State's ready to go. And the concern I had was the witnesses he promised to bring did not show up. At this point what we're going to be doing is looking for the State's witnesses that have gaps in their testimony and trying to shake that gap and trying to show there was a definite bias that they had all ganged up against him on this and it stemmed from the civil case. Either way is fine, we can do whatever he wanted to do. I was

> prepared to go forward at that time. Space had been cleared for trial. Everybody was in place and ready to go. The table had been set. It was just whether or not he wanted to say grace and start or whether he wanted to take the offer and let him think about it. And he said he needed a few minutes and then we gave him whatever time. I gave him whatever time he needed to. And then finally I said I'm going to have to have an answer because the Court is asking me what we're going to do and I had been back and forth and I remember being asked what are you going to do, are y'all going to trial or not. I said let me check and see. Ultimately he said he would accept the offer, paperwork is drafted. He signed it and the plea was entered.

On cross-examination, second counsel recalled the Defendant telling him about a text from Angelica Griffin to Skylar Butler that they would "give up the criminal pursuit if he would give up the civil lawsuit[.]" Second counsel said that he pulled the civil case file from the clerk's office, but he did not subpoena the court clerk. Second counsel did not recall telling the Defendant that he did not have to worry about his felony impacting his ability to work because he owned his own business.

Following the hearing, the trial court took the matter under advisement. On January 11, 2019, the trial court entered an order denying the Defendant's motion to withdraw his guilty plea. In its order, the trial court made extensive findings of fact and conclusions of law. On February 8, 2019, the Defendant filed a timely notice of appeal.

ANALYSIS

On appeal, the Defendant contends the trial court abused its discretion in denying his motion to withdraw his guilty plea. While the Defendant's issues are poorly phrased, the Defendant essentially argues that his guilty pleas were unknowing and involuntary due to the ineffective assistance of first and second counsel. In regard to first counsel, the Defendant claims that his guilty plea was involuntary based on first counsel's failure to timely notify the Defendant of his conflict of interest. The Defendant makes various other claims related to first counsel's failure to timely convey the November, 2016 plea offer, none of which were presented to the trial court. Because the Defendant challenges the voluntariness of his guilty plea based on the ineffectiveness assistance of first counsel for the first time on appeal, this issue is waived. The Defendant also claims that his guilty plea was unknowing and involuntary because second counsel was ineffective in failing to investigate certain defenses and plea offers, and in failing to provide him with enough time to consider his defenses if he proceeded to trial. In response, the State contends that the trial court's denial of the Defendant's motion to withdraw his guilty

plea was proper, as the Defendant failed to prove "manifest injustice." We agree with the State.

This court reviews a trial court's decision regarding a motion to withdraw a guilty plea for an abuse of discretion. State v. Phelps, 329 S.W.3d 436, 443 (Tenn. 2010) (citing State v. Crowe, 168 S.W.3d 731, 740 (Tenn. 2005)). "An abuse of discretion exists if the record lacks substantial evidence to support the trial court's conclusion." Crowe, 168 S.W.3d at 740 (citing Goosby v. State, 917 S.W.2d 700, 705 (Tenn. Crim. App. 1995)). Rule 32(f) of the Tennessee Rules of Criminal Procedure governs this issue and provides as follows:

> Withdrawal of Guilty Plea.
>
> (1) Before Sentence Imposed.–Before sentence is imposed, the court may grant a motion to withdraw a guilty plea for any fair and just reason.
>
> (2) After Sentence But Before Judgment Final. –After sentence is imposed but before the judgment becomes final, the court may set aside the judgment of conviction and permit the defendant to withdraw the plea to correct manifest injustice.

Tenn. R. Crim. P. 32(f).

Although the Defendant argues on appeal that the trial court should have applied the "fair and just reason" standard of review, the Defendant's judgments were entered on May 21, 2018, the same day that he entered his plea. He filed his motion to set aside his plea on June 15, 2018. "As a general rule, a trial court's judgment becomes final thirty days after its entry unless a timely notice of appeal or a specified post-trial motion is filed." State v. Pendergrass, 937 S.W.2d 834, 837 (Tenn. 1996) (citing Tenn. R. App. P. 4(a) and (c); State v. Moore, 814 S.W.2d 381, 382 (Tenn. Crim. App. 1991)). Because the Defendant filed his motion to set aside his plea after his sentence was imposed but before the judgments became final, the more demanding standard, "to correct manifest injustice," applies to our review of the trial court's denial of the motion. See Tenn. R. Crim. P. 32(f); Crowe, 168 S.W.3d at 741. "This standard is based 'upon practical considerations important to the proper administration of justice.'" Crowe, 168 S.W.3d at 741 (quoting Kadwell v. United States, 315 F.2d 667, 670 (9th Cir. 1963)). This court has outlined certain circumstances that warrant the withdrawal of a guilty plea under the manifest injustice standard:

> Although Rule 32(f) does not define "manifest injustice," courts have identified on a case-by-case basis circumstances that meet the

> manifest injustice standard necessary for withdrawal of a plea. See Turner, 919 S.W.2d at 355; [State v.] Evans, 454 S.E.2d [468,] 473 [(Ga. 1995)]. Withdrawal to correct manifest injustice is warranted where: (1) the plea "was entered through a misunderstanding as to its effect, or through fear and fraud, or where it was not made voluntarily"; (2) the prosecution failed to disclose exculpatory evidence as required by Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963), and this failure to disclose influenced the entry of the plea; (3) the plea was not knowingly, voluntarily, and understandingly entered; and (4) the defendant was denied the effective assistance of counsel in connection with the entry of the plea.

Crowe, 168 S.W.3d at 741-42 (internal footnotes omitted); accord State v. Virgil, 256 S.W.3d 235, 240 (Tenn. Crim. App. 2008). The defendant bears the burden of establishing that his or her plea should be withdrawn to correct manifest injustice. Turner, 919 S.W.2d at 355 (citation omitted).

"A defendant does not have a unilateral right to withdraw a plea." Crowe, 168 S.W.3d at 740 (citing State v. Mellon, 118 S.W.3d 340, 345 (Tenn. 2003); Turner, 919 S.W.2d at 355; State v. Anderson, 645 S.W.2d 251, 253-54 (Tenn. Crim. App. 1982)). Moreover, "a defendant's change of heart about pleading guilty or a defendant's dissatisfaction with the punishment ultimately imposed does not constitute manifest injustice warranting withdrawal." Id. at 743 (citing Turner, 919 S.W.2d at 355).

When analyzing the validity of a guilty plea, we follow the federal landmark case of Boykin v. Alabama, 395 U.S. 238 (1969), and the Tennessee landmark case of State v. Mackey, 553 S.W.2d 337 (Tenn. 1977), superseded on other grounds by rule as stated in State v. Wilson, 31 S.W.3d 189, 193 (Tenn. 2000). State v. Pettus, 986 S.W.2d 540, 542 (Tenn. 1999). In Boykin, the United States Supreme Court held that a trial court may not accept a guilty plea unless there is an affirmative showing that the guilty plea was "intelligent and voluntary." 395 U.S. at 242. When accepting a guilty plea, the trial court is responsible for "canvassing the matter with the accused to make sure he has a full understanding of what the plea connotes and of its consequence." Id. at 244. In Mackey, the Tennessee Supreme Court held that "the record of acceptance of a defendant's plea of guilty must affirmatively demonstrate that his decision was both voluntary and knowledgeable, i.e., that he has been made aware of the significant consequences of such a plea; otherwise, it will not amount to an 'intentional abandonment of a known right.'" 553 S.W.2d at 340.

A plea is not voluntary if it is the result of "'[i]gnorance, incomprehension, coercion, terror, inducements, [or] subtle or blatant threats . . . .'" Blankenship v. State, 858 S.W.2d 897, 904 (Tenn. 1993) (quoting Boykin, 395 U.S. at 242-43). In determining

whether a guilty plea is voluntarily and intelligently entered, a trial court must look at a number of factors, which include the following:

> 1) the defendant's relative intelligence; 2) the defendant's familiarity with criminal proceedings; 3) the competency of counsel and the defendant's opportunity to confer with counsel about alternatives; 4) the advice of counsel and the court about the charges and the penalty to be imposed; and 5) the defendant's reasons for pleading guilty, including the desire to avoid a greater penalty in a jury trial.

Howell v. State, 185 S.W.3d 319, 330-31 (Tenn. 2006) (citing Blankenship, 858 S.W.2d at 904).

In denying the Defendant's motion to withdraw his guilty plea, the trial court's order addressed each of the factors from Howell, 185 S.W.3d at 330-31, and stated, in pertinent part, as follows:

> This evidentiary hearing was somewhat convoluted and difficult to evaluate because most of the testimony concerned allegations that [second counsel] had somehow performed "deficiently[,]" but [third counsel] for [the Defendant] repeatedly advised this Court that [the Defendant] was not making a claim of ineffective assistance of counsel but merely a claim that the guilty plea was not knowing, intelligent and voluntary. [See p. 23, 76, 83-84]. The thrust of the Defendant's argument is that [trial counsel] did not advise the Defendant as to what the Defendant's witnesses were going to say at trial and therefore, the Defendant could not have made a knowing decision as to what might have happened at trial. [p. 88].
>
> It is respectfully submitted that knowing exactly what the witnesses are going to testify to at trial is not a requirement of a knowing and intelligent guilty plea. If that were the case, the Rules of Criminal Procedure would probably be amended to allow the routine taking of discovery depositions in criminal cases. Furthermore, even if a witness is interviewed before trial, the testimony of the witness before the jury may be different than the interview. In fact, not only may the witness change their testimony they may become reluctant to testify and refuse to voluntarily cooperate. More importantly, in this case, all of the witnesses in question were relatives of the Defendant. It would be expected that the Defendant would know what his own mother, brother, aunt and fiancé would say if called as witnesses. In fact, there was no testimony before this Court that the Defendant did not know what his witnesses would say if called as

witnesses. The allegation is not that the Defendant did not know what his witnesses would say, but that his counsel was not the source of his knowledge. Simply put, the fact that counsel did not advise the Defendant of something the Defendant already knew did not render the guilty plea un-knowing and un-intelligent. To the contrary, by inference, [considering the familial relationship and absence of testimony that he did not know] this Court finds that the Defendant had a very good idea of what his witnesses would say if required to testify. Further, he discussed what his witnesses would say with his attorney who advised him that these witnesses [who did not witness the event in question] were outnumbered by witnesses who actually were present at the time of the incident. Finally, this Court finds that not only did the Defendant have a good idea as to what his witnesses would say, he also knew that the witnesses did not want to voluntarily come to court and get involved in the matter.

The Defendant is a 34[-]year[-]old, college educated, self-employed businessman. The Defendant was somewhat familiar with the criminal justice process as this was his second time to be indicted, and he had previously entered a guilty plea and was placed on judicial diversion. Furthermore, this case lingered for nearly five years and the guilty plea was entered on the 29th court date. The Defendant was represented by three different attorneys. [Second counsel] advised the Defendant as to both the strengths and weaknesses of the case if the matter had gone to trial. Significantly, [second counsel] was aware of the civil lawsuit and the relationship of one of the victims with Gregory Griffin and could have brought those matters up if the case had gone to trial. On the other hand, none of the proposed defense witnesses were actually present when the incident occurred. More importantly, this Court accredits [second counsel's] testimony that he was led to believe by the Defendant that his relative-witnesses would voluntarily show up for trial and that on the day of trial these witnesses informed the Defendant that they did not want to be involved. It also appears as though the Defendant believed that his cousin did not wish to prosecute the case and would not show up for the trial. However, on the day of trial, Defendant was informed that his cousin was going to be present and to testify and there would be multiple witnesses against him. Faced with the facts, [second counsel] provided his opinion that the Defendant should pled guilty. In doing so, this Court finds that [second counsel] made no misrepresentations and did not engage in undue influence, but merely engaged in fair persuasion as to the course of action. Specifically, [second counsel] advised the Defendant of the range of punishment and also advised him that the Defendant would have to

> evaluate the effect of a felony conviction on his record. This court does not believe [the Defendant's] testimony that he did not know the matter was set for trial on Monday, that he was told not to worry about a felony conviction or that he was told he would definitely go to jail for six years. Simply put, it appears to this Court that [the Defendant's] testimony before this Court is a "shotgun" attack against [second counsel] in an attempt to "throw everything against the wall and hope something sticks."
>
> In this posture, [the Defendant] was faced with a choice. He could go to trial where there were multiple eyewitnesses who would place a gun in his hand at the time of the assault including one of his own close relatives, and face the possibility of up to six years confinement or he could plead guilty in exchange for an agreed upon up-front probation. Nothing in the record or in the testimony presented to this Court indicates that the decision to plead guilty was anything other than a knowing, intelligent and voluntary decision. In fact, this Court finds that the guilty plea was a knowing, intelligent and voluntary decision by the Defendant. Likewise, there has been no showing of ineffective assistance of counsel. As such, this Court does not find that the guilty plea should be set aside to correct a manifest injustice.

The record supports the determination of the trial court. Accordingly, the Defendant is not entitled to relief.

CONCLUSION

Based on the above authority and analysis, we affirm the judgments of the trial court.

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CAMILLE R. MCMULLEN, JUDGE