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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-798

Filed 16 July 2024

Moore County, Nos. 19CRS278 19CRS504-507 19CRS50508-09

STATE OF NORTH CAROLINA,

v.

ARNOLD TRAVIS CLARK.

Appeal by Defendant from order entered 21 December 2022 by Judge James M. Webb in Moore County Superior Court. Heard in the Court of Appeals 12 June 2024.

*Attorney General Joshua H. Stein, by Special Deputy Attorney General Sherri H. Lawrence, for the State.*

*Appellate Defender Glenn Gerding, by Assistant Appellate Defender Katherine J. Allen, for Defendant.*

PER CURIAM.

Arnold Clark (“Defendant”) appeals from order denying his motion for appropriate relief (“MAR”) and motion to withdraw. We affirm.

**Background**

A Moore County grand jury indicted Defendant with twelve counts of statutory

rape, eleven counts of incest, and ten counts of indecent liberties on 12 July 2021. The case was called for trial on 2 May 2022. Defendant entered an *Alford* plea to eleven counts of incest and ten counts of taking indecent liberties with a child pursuant to a plea agreement. Defendant filed a ten-day MAR to withdraw his guilty plea on 9 May 2022, and an amended MAR on 12 May 2022. The trial court held an evidentiary hearing for these motions on 14, 16, and 19 December 2022. The trial court denied Defendant's MAR and motion to withdraw by written order on 21 December 2022.

### **Analysis**

When reviewing a trial court's findings on a motion for appropriate relief, the "findings are binding if they are supported by competent evidence and may be disturbed only upon a showing of manifest abuse of discretion." *State v. Wilkins*, 131 N.C. App. 220, 223, 506 S.E.2d 274, 276 (1998) (citing *State v. Pait*, 81 N.C. App. 286, 288–89, 343 S.E.2d 573, 575 (1982)). Whether a defendant is allowed to withdraw a guilty plea is a question of law, which is reviewed *de novo* based on our independent review of the record on appeal. *See State v. Handy*, 326 N.C. 532, 539 (1990).

"[W]here the guilty plea is sought to be withdrawn by the defendant after sentence, it should be granted only to avoid manifest injustice." *Handy*, 326 N.C. at 536 (quoting *State v. Olish*, 164 W.Va. 712, 715, 266 S.E.2d 134, 136 (1980)). "Factors to be considered in determining the existence of manifest injustice include whether: Defendant was represented by counsel; Defendant is asserting innocence; and

Defendant's plea was made knowingly and voluntarily or was the result of misunderstanding, haste, coercion, or confusion." *State v. Russell*, 153 N.C. App. 508, 509, 570 S.E.2d 245, 247 (2002) (citing *Handy*, 326 N.C. at 539, 391 S.E.2d at 163).

Additionally, "a higher post-sentence standard for withdrawal is required by the settled policy of giving finality to criminal sentences which result from a voluntary and properly counseled guilty plea." *Handy*, 326 N.C. at 537, 391 S.E.2d at 161 (citations omitted).

Defendant argues the trial court did not correctly apply the manifest injustice standard at the MAR evidentiary hearing. Though the trial court did not explicitly identify its application of the manifest injustice factors, such application was nevertheless present within the trial court's order. Since we consider this question *de novo* on appeal, we need not remand back to the trial court.

The trial court's findings indicate Defendant was well educated in legal research and legal proceedings, actively engaged with counsel representing him, and willfully entered his guilty plea. Specifically, the trial court found Defendant: (1) obtained an associate degree in paralegal studies in 1998; (2) participated thoroughly in the discovery process with his attorney and conducted his own independent legal research; (3) fully understood the meaning of his guilty plea and the consequences thereof; and (4) entered his plea knowingly and voluntarily. Additionally, the trial court found Defendant constantly maintained his innocence, and understood the potential consequences if convicted of the originally charged offenses. In considering

the trial court's findings of fact together with the *Handy* factors, we hold Defendant did not demonstrate a manifest injustice.

**Conclusion**

In reviewing the record on appeal, we conclude Defendant did not sufficiently allege a manifest injustice relating to the trial court's judgment. Accordingly, we affirm the trial court's denial of Defendant's MAR and motion to withdraw.

AFFIRMED.

Panel consisting of Judges MURPHY, HAMPSON, and WOOD.

Report per Rule 30(e).