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State v. Rideaux Appellant's Brief Dckt. 46514

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Idaho Supreme Court
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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	**NO. 46514-2018**
Plaintiff-Respondent,	)	
	)	**KOOTENAI COUNTY**
v.	)	**NO. CR-2017-2014**
	)	
ROBERT L. RIDEAUX,	)	**APPELLANT'S BRIEF**
	)	
Defendant-Appellant.	)	
	)	

BRIEF OF APPELLANT

APPEAL FROM THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

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District Judge

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STATEMENT OF THE CASE

Nature of the Case

Robert L. Rideaux challenges the district court's denial of his motion to withdraw his guilty plea to possession of a stolen vehicle. The initial factual basis for this offense was Mr. Rideaux's possession of his mother's car, which she had reported stolen. Later, his mother sent an affidavit to Mr. Rideaux's counsel stating the car belonged to Mr. Rideaux. She also stated she only reported it stolen to get back at Mr. Rideaux after a heated family argument. Shortly after receiving this affidavit, Mr. Rideaux moved to withdraw his plea. In turn, the State argued it would be prejudiced by Mr. Rideaux's plea withdrawal because his mother's affidavit showed he was innocent and thus the State could not prove its case at trial. The district court denied Mr. Rideaux's motion, rejecting Mr. Rideaux's just reason and finding prejudice to the State. Mr. Rideaux now appeals. He maintains the district court abused its discretion by denying his motion to withdraw his guilty plea.

Statement of Facts and Course of Proceedings

On February 10, 2017, Arlene Pruss reported her car stolen to the Milwaukee Police Department. (R., p.14.) The Milwaukee police report stated Ms. Pruss saw her car in her residence's parking lot on the evening of February 9, but it was gone the next morning. (R., p.14.) This car was "her spare vehicle that she does not drive every day." (R., p.14.) Ms. Pruss reported she had kicked her son, Mr. Rideaux, out of her house a few months ago. (R., p.14.) She also reported a key missing for the car after he left. (R., p.14.) In the report, Ms. Pruss "stated she suspects her son . . . took her vehicle with her missing key, but did not observe [him] take her vehicle." (R., p.14.)

Two days later, on February 12, Officer Grady saw the stolen car traveling on the highway in Kootenai County and stopped the car. (R., p.13.) Mr. Rideaux was driving. (R., p.13.) Officer Grady reported Mr. Rideaux gave him multiple explanations for driving the car. (R., pp.13–14.) Mr. Rideaux explained (1) he filled out the stolen car report with his mother because his brother had stolen the car; (2) his mother had dementia so she reported it stolen by mistake; (3) it was shared family car but his mother did not like him using it to pick up his in-laws in Portland; (4) and his stepfather reported it stolen by the brother. (R., pp.13–14.) Officer Grady arrested him for possession of a stolen vehicle and driving without privileges ("DWP"). (R., p.14.) The State filed a Criminal Complaint alleging possession of a stolen vehicle, in violation of I.C. § 49-228. (R., pp.11–12.) The case was consolidated with the DWP misdemeanor citation. (R., pp.10, 20.)

At a contested preliminary hearing, the State called Officer Grady as its only witness. (R., pp.26–28; *see* Tr.,[1] pp.3–4 (Vol. I, p.4, L.14–p.10, L.24).) The State also moved to admit an "Affidavit of Ownership" by Ms. Pruss. (R., p.27; Tr., pp.4–5 (Vol. I, p.10, L.24–p.11, L.1).) Mr. Pruss signed, but did not date, the affidavit. (Conf. Exs., p.3.) It was notarized with the notary's signature dated two days before the preliminary hearing. (Conf. Exs., p.3.) In the affidavit, Ms. Pruss averred she was the owner of the car. (Conf. Exs., p.2.) She also stated she did not transfer her possessory interest to anyone, including Mr. Rideaux, or give anyone else authority to transfer the car. (Conf. Exs., p.2.) She stated the car was stolen from her on February

[1] There are three separate transcripts in one PDF document. Citations will refer first to the overall transcript and the total document's pagination, followed parenthetically by the transcript volume and its internal pagination. Volume I contains the preliminary hearing, held on February 24, 2017 (pages 1 to 7 of total document). Volume II contains the entry of plea hearing, held on March 28, 2017, and the sentencing hearing, held on September 7, 2018 (pages 8 to 81). Volume III contains the hearing on Mr. Rideaux's motions to withdraw plea and reduce bond, held on July 24, 2018 (pages 82 to 170).

10, and it had "a value in excess of $1,000.01" at the time it was stolen. (Conf. Exs., pp.2–3.) The magistrate admitted this affidavit only to show Ms. Pruss's ownership. (Tr., pp.5–6 (Vol. I, p.12, L.23–p.13, L.13, p.15, Ls.9–12).) The magistrate would not consider any other statements therein. (Tr., p.6 (Vol. I, p.15, Ls.12–19).) The magistrate found probable cause for possession of a stolen vehicle and bound Mr. Rideaux over to district court. (R., pp.25, 28.) The State charged him by Information accordingly. (R., pp.33–34.)

On March 28, 2017, Mr. Rideaux pled guilty to possession of a stolen vehicle and DWP pursuant to plea agreement with the State. (R., pp.48–49; Tr., pp.21–22 (Vol. II, p.14, L.20–p.15, L.4).) Mr. Rideaux had been in custody since his February 12 arrest, and the State offered to agree to his release if he pled guilty. (R., p.46; Tr., pp.11–12 (Vol. II, p.4, L.24–p.5, L.1).) The State also agreed to recommend the district court retain jurisdiction. (R., p.46; Tr., p.11 (Vol. II, p.4, Ls.20–22).) During the plea colloquy, Mr. Rideaux admitted, under oath, to possession of his mother's car without her permission. (Tr., p.23 (Vol. II, p.16, Ls.7–21).) He also admitted he had reason to believe or knowledge the car was stolen. (Tr., p.23 (Vol. II, p.16, Ls.22–24).) The district court accepted his guilty pleas. (Tr., p.24 (Vol. II, p.17, Ls.9–13).) The district court released Mr. Rideaux on his own recognizance and set sentencing for May 15, 2017. (Tr., pp.28–29 (Vol. II, p.21, L.19–p.22, L.4).)

Mr. Rideaux failed to appear at his presentence investigation interview, and the district court issued a bench warrant on June 13, 2017. (R., pp.55–56.) Mr. Rideaux was back in custody about a year later and arraigned on the warrant on July 9, 2018. (R., p.57.)

Four days after arraignment, Mr. Rideaux moved to withdraw his guilty plea. (R., pp.60–61.) Mr. Rideaux stated that he received a new affidavit from his mother "that tends to prove his

innocence." (R., p.60.) This second affidavit was signed and dated by Ms. Pruss on June 5, 2018. (R., p.62.) It contained a notary stamp. (R., p.62.) It read:

> To whom it may concern.
> My name is Mrs. Arlene Pruss. I gifted my car to my son Robert when he graduated from cooking school. The car is in my name and my husband's name due to Robert's financial instability and not being responsible. Robert had out burst of temper & anger problems. He was quick to lash out at people for no reasons. Also was constantly challenging authority. I told him that he was disrespectful to his parents so he had to leave the car, and buy his own, and if he took the car without permission it would be reported stolen—Robert challenged me took the car and it was in my name so I had no choice but to report it stolen I don't want to press charges!!

(R., p.62 (sic).) Mr. Rideaux also moved for his release or a reduction of his bond. (R., pp.58–59.)

In late July 2018, the district court held a hearing on Mr. Rideaux's motions. (Tr., pp.84–134 (Vol. III, p.3, L.1–p.53, L.11).) The district court admitted Ms. Pruss's second affidavit. (*See* Tr., pp.85–91 (Vol. III, p.4, L.6–p.10, L.4).) Mr. Rideaux also testified and explained the events leading up to the charged offense and his guilty plea. He stated Ms. Pruss's first affidavit was not consistent with his understanding of the situation. (Tr., p.92 (Vol. III, p.11, Ls.22–25).) He testified it was his car and had been for many years. (Tr., p.94 (Vol. III, p.13, Ls.3–11).) He further stated his mother bought him the car, and he had permission to use it along with the rest of the family, including his son, his stepfather, and Ms. Pruss. (Tr., pp.94–95 (Vol. III, p.13, L.14–p.14, L.2).) On cross-examination, Mr. Rideaux testified his mother bought the car for him, paid for insurance, and registered it in her name. (Tr., p.97 (Vol. III, p.16, Ls.12–18).) He also explained:

> She reported the car stolen because I came home drunk, upset and belligerent because my daughter met someone on the internet and ran off to Spokane and was on drugs.
>
> I wanted my daughter to come home. My mother and my daughter's relationship was not good at all. I said somethings that was very rude and very

> disrespectful to my mother. It's in the Bible, honor thy mother and thy father; the days, they shall be numbered.
>
> I didn't honor her at that minute. So I beat the hand that feed me. She called -- I called her bluff. She called my bluff.

(Tr., p.98 (Vol. III, p.17, Ls.10–20).) Mr. Rideaux took the car to get his daughter, even though his mother disapproved. (Tr., p.104 (Vol. III, p.23, Ls.2–4, p.23, Ls.14–17).) By the time of entry of plea hearing, Mr. Rideaux's daughter had died of a drug overdose, and Ms. Pruss had a stroke upon learning of her granddaughter's death. (Tr., pp.103–04 (Vol. III, p.22, Ls.23–25, p.23, Ls.18–21).) Mr. Rideaux testified he pled guilty so he could be released and "go bury my daughter." (Tr., pp.106–07 (Vol. III, p.25, L.24–p.26, L.2).) He also recognized, on cross-examination, he knew the car was reported as stolen. (Tr., p.114 (Vol. III, p.33, Ls.6–17).)

After his testimony, Mr. Rideaux argued in support of the motion to withdraw his plea. (Tr., p.118–21 (Vol. III, p.37, L.19–p.40, L.17).) He argued Ms. Pruss's second affidavit indicating he had permission to have the car, as well as his distress due to his daughter's death and other family turmoil, were just reasons to withdraw his plea. (*See* Tr., p.118–20, 121 (Vol. III, p.37, L.20–p.39, L.7, p.40, Ls.8–17).) In response, the State argued Mr. Rideaux was not credible. (Tr., pp.122–23 (Vol. III, p.41, L.23–p.42, L.9).) The State also asserted "great prejudice" by a plea withdrawal. (Tr., p.124 (Vol. III, p.43, Ls.5–6).) The State claimed:

> The other thing that I think that is important to consider here is prejudice. So, on the one hand, if the Court deems that letter from the victim to be the letter from the victim, because we don't really know that for sure, that's the problem, then obviously the State has great prejudice, because we're not going to be able to prove our case, because for whatever reason, the victim has done an about-face. As the Court can see from Exhibit 1 and 2, the victim was very clear back when she reported it that it was stolen. But now we have -- if you think that this exhibit from the defense is really from her, you have evidence that she's backtracked. So, the prejudice to the State, assuming it really is from the victim, and that really is her position, is great. And we can't prove the case at all.

(Tr., p.123 (Vol. III, p.42, Ls.10–23).) In sum, the State claimed it would be prejudiced because it would be unable to prove Mr. Rideaux was guilty.

The district court ruled from the bench. (*See* Tr., pp.128–32 (Vol. III, p.47, L.2–p.51, L.7).) First, the district court identified the just cause standard and its discretion in its ruling. (Tr., p.128 (Vol. III, p.47, Ls.5–9).) Second, the district court reviewed Ms. Pruss's two affidavits. The district court found the second affidavit to be "an authentic letter" from Ms. Pruss, but read it as "not so much an exoneration of Mr. Rideaux, as simply Miss Pruss's explanation of why she does not wish this matter to be prosecuted." (Tr., p.128 (Vol. III, p.47, Ls.17–22).) The district court also found the first affidavit, from the preliminary hearing, to be a little suspect in light of Mr. Pruss's statement of the car's value at "$1,000.01." (Tr., p.129 (Vol. III, p.48, Ls.1–12).) Third, the district court considered prejudice to the State and reasoned, "I think the prejudice to the State is significant here to try to prosecute this case under the circumstances as the Court sees it." (Tr., p.130 (Vol. III, p.49, Ls.9–12).) The district court concluded:

> For all of these reasons, I'm going to deny the motion to withdraw the guilty plea. And I'm denying that motion because I just don't believe an injustice is being done by allowing this guilty plea to stand. And basically, the most important factor for the Court to -- in writing its decision was the fact that on March the 28th of 2017 Mr. Rideaux pled guilty to possession of a stolen vehicle. He was placed under oath. And in response to the Court's questions, the Court read the charges to him, and the minutes of that hearing and these minuted [sic] are always very good. The minutes of that hearing was: "It was my mom's car. I did not have permission to take it. My driver's license was suspended in terms of the DWP."
>
> In terms of whether that guilty plea was made under any unsound mind at the time, it's always hard in self-analysis, but this – I'd like to think that I take a lot of time in guilty pleas. And, in fact, I think that oftentimes people in court get quite bored guilty plea – guilty plea colloquies. But any time that I ever sense any hesitation on the part of a defendant, whether it be a matter of understanding or not wanting to plead guilty, I always inquire about that, and I always ask that person to take their time, talk to their lawyer, are they sure. And it's my at least vague recollection that I don't have any sense from Mr. Rideaux that he was unsure about that guilty plea.

> And so, the most compelling evidence before the Court is the fact that under oath he said, "It was my mom's car, and I didn't have permission to have it." And Miss Pruss's alternating submissions to the Court are less compelling than that. And the other arguments of defense are less compelling than that, and so I'm exercising my discretion by not allowing the guilty plea to be withdrawn. I am going to probably consider some of this evidence as terms of mitigation in the sense of the overall factor pattern that led to this guilty plea.

(Tr., pp.130–32 (Vol. III, p.49, L.24–p.51, L.9).) The district court also denied Mr. Rideaux's motion to reduce bond. (Tr., p.132 (Vol. III, p.51, Ls.10–23).) A few days later, the district court entered an order denying Mr. Rideaux's motions to withdraw his plea and to reduce bond. (R., p.66.)

In early September 2018, the district court held a sentencing hearing. (R., pp.68–70; Tr., pp.32–56 (Vol. II, p.25, L.5–p.49, L.13).) The State recommended a sentence of three years indeterminate. (Tr., p.47 (Vol. II, p.40, Ls.9–10).) Mr. Rideaux requested credit for time served or unsupervised probation. (Tr., pp.49–50 (Vol. II, p.42, L.17–p.43, L.5).) When sentencing Mr. Rideaux, the district court stated, "I'm accepting your representations that you shouldn't have pled guilty to this charge that your mother reported this vehicle as stolen, and I guess she had the right to do that, but she never really intended for you to be -- go through what you've gone through because of this." (Tr., p.53 (Vol. II, p.46, Ls.8–13).) The district court also stated:

> In the Court's mind, the real crime here is when you raised your right hand and took an oath to tell the truth and then you told the Court under oath that this car was stolen and you knew it was stolen and you pled guilty. Now you've explained that, but, you know, that was just a lie under oath to the Court and that's -- so you've sat in jail 222 days, I'm giving you credit for, and that's from your own doing. Lying in court, that's what happens. Bad things flow from that.

(Tr., p.53 (Vol. II, p.46, Ls.14–22).) Similarly, the district court said:

> But I have to look at the fact here that I just don't think there's evidence that you were in possession of a stolen vehicle. I think you were in possession of a contested vehicle. Your mom thought you shouldn't have it, shouldn't be driving it the way you were. You thought you had the right to do that. I just don't see that as an issue about protection of society. I don't see that as an issue of punishment.

(Tr., p.54 (Vol. II, p.47, Ls.6–13).) The district court sentenced Mr. Rideaux two years indeterminate, suspended the sentenced, and placed him on unsupervised probation for two years. (Tr., p.54 (Vol. II, p.47, Ls.14–18).)

Mr. Rideaux timely appealed from the district court's judgment of conviction. (R., pp.72–74, 76–78.)

ISSUE

Did the district court abuse its discretion by denying Mr. Rideaux's pre-sentencing motion to withdraw his guilty plea?

ARGUMENT

The District Court Abused Its Discretion By Denying Mr. Rideaux's Pre-Sentencing Motion To Withdraw His Guilty Plea

A. Introduction

Mr. Rideaux argues the district court abused its discretion by denying his motion to withdraw his guilty plea because he had a just reason to withdraw his plea and the State suffered no prejudice. In denying his motion, the district court did not apply the correct legal standards because it rejected Mr. Rideaux's just reason and found the State would be prejudiced by his plea withdrawal. Both of these determinations were in error, and proper application of the legal standards shows the district court should have allowed Mr. Rideaux to withdraw his guilty plea.

B. Standard Of Review

The Court reviews the district court's denial of a motion to withdraw a guilty plea for an abuse of discretion. *State v. Sunseri*, No. 45260, 437 P.3d 9, 2018 WL 5628898, at *2 (Idaho Oct. 31, 2018). The abuse of discretion standard examines whether the district court: "(1) Correctly perceived the issue as one of discretion; (2) acted within the outer boundaries of its discretion; (3) acted consistently with the legal standards applicable to the specific choices available to it; and (4) reached its decision by the exercise of reason." *Lunneborg v. My Fun Life*, 163 Idaho 856, 867 (2018).

C. The District Court Did Not Act Consistently With The Legal Standards Because Mr. Rideaux Had A Just Reason To Withdraw His Plea And The State Showed No Prejudice From A Plea Withdrawal

Idaho Criminal Rule 33(c) governs motions to withdraw a guilty plea. It states: "A motion to withdraw a plea of guilty may be made only before sentence is imposed or imposition of sentence is suspended; but to correct manifest injustice the court may set aside the judgment

of conviction after sentence and may permit the defendant to withdraw a plea of guilty." I.C.R. 33(c). "As the text of the Rule reflects," a motion to withdraw a guilty plea before sentencing requires "a less rigorous measure of proof, *State v. Flowers*, 150 Idaho 568, 571 (2011)." *Sunseri*, 2018 WL 5628898, at *3. The district court "is encouraged to liberally exercise its discretion in granting a motion to withdraw a guilty plea," if made prior to sentencing. *Id.* at *4 (citing *State v. Wyatt*, 131 Idaho 95, 97 (Ct. App. 1998)).

The Court has outlined a two-part analysis to review a motion to withdraw a guilty plea prior to sentencing. First, "the defendant must show a just reason for withdrawing the plea." *Id.* at *3 (quoting *Flowers*, 150 Idaho at 571). "The just reason standard does not require that the defendant establish a constitutional defect in his or her guilty plea." *Id.* at *4 (quoting *State v. Hartsock*, 160 Idaho 639, 641 (Ct. App. 2016)). Rather, "[t]he determination whether a defendant has shown a just reason for withdrawal of the plea is a factual decision committed to the discretion of the trial court." *Id.* Second, if the defendant shows a just reason, "then the State may avoid the granting of the motion by showing that prejudice would result if the plea were withdrawn." *Id.* (quoting *Flowers*, 150 Idaho at 571).

In this case, the district court should have granted Mr. Rideaux's motion to withdraw his guilty plea because Mr. Rideaux had a just reason for the withdrawal and the State failed to show any legitimate claim of prejudice. Accordingly, the district court did not apply the correct legal standards and thus abused its discretion by denying his motion.

1. Mr. Rideaux's Credible Assertion Of Innocence Based On Ms. Pruss's Second Affidavit Was A Just Reason To Withdraw His Plea

First, Mr. Rideaux established a just reason to withdraw his plea—credible innocence to the charged offense supported by evidence. The State had the burden to prove Mr. Rideaux had

possession of Ms. Pruss's car, "which he knows or has reason to believe has been stolen." I.C. § 49-228. (*See also* R., p.33 (Information).) Mr. Pruss's second affidavit, along with Mr. Rideaux's testimony, called into question the initial factual basis for his guilt and established legal innocence that could not have been raised earlier. This was a just reason for his guilty plea withdrawal.

Although not exclusive, the Court has outlined four factors to consider in the determination of a "just reason." *Sunseri*, 2018 WL 5628898, at *4. The district court should consider:

> (1) whether the defendant has credibly asserted his legal innocence; (2) the length of delay between the entry of the guilty plea and the filing of the motion; (3) whether the defendant had the assistance of competent counsel at the time of the guilty plea; and (4) whether withdrawal of the plea will inconvenience the court and waste judicial resources.

Id. "[T]he good faith, credibility, and weight of the defendant's assertions in support of his motion to withdraw his plea are matters for the trial court to decide." *Id.* (quoting *State v. Hanslovan*, 147 Idaho 530, 537 (Ct. App. 2008)).

Looking at the first factor, Mr. Rideaux credibly asserted his innocence and supported his assertion with evidence. To be sure, "[a] declaration of innocence alone does not entitle a defendant to withdraw a guilty plea." *State v. Akin*, 139 Idaho 160, 162 (Ct. App. 2003) (citing *State v. Knowlton*, 122 Idaho 548, 549 (Ct. App. 1992)). If "there is some basis in the record of factual guilt," the defendant's subsequent "denial of factual guilt is not a just reason." *State v. Dopp*, 124 Idaho 481, 486 (1993). "[W]ithdrawal is not an automatic right and more substantial reasons than just asserting legal innocence must be given." *Id.* In addition, when the defendant asserts innocence, the district court must "consider the reason why the defense was not put

forward at the time of original pleading." *Hanslovan*, 147 Idaho at 537 (quoting *State v. Rodriguez*, 118 Idaho 957, 961 (1990)).

In this case, Mr. Rideaux provided more than a baseless declaration of innocence. He offered, and the district court admitted, the second affidavit from the alleged owner of the car, his mother, Ms. Pruss. This affidavit showed Mr. Rideaux in fact owned the car, and his mother had given it to him as a gift years ago. (R., p.62.) Additionally, Mr. Rideaux's sworn testimony bolstered Ms. Pruss's affidavit. He testified his mother bought the car for him, and he had permission to use it, along with the rest of the family. (Tr., pp.94–95 (Vol. III, p.13, Ls.3–11, p.13, L.14–p.14, L.2).) As for Ms. Pruss's report to the Milwaukee police on her allegedly stolen car, her affidavit established her police report was not accurate. As stated in her affidavit, Ms. Pruss only reported the car as stolen in response to her son disrespecting her. (R., p.62.) She did not truly believe the car was stolen, as it was her son's car. (*See* R., p.62.) In short, this was a family dispute that escalated quickly—and far beyond Ms. Pruss's intentions. Relying on Ms. Pruss's affidavit, a rational trier of fact could find Mr. Rideaux did not possess a stolen car. Ms. Pruss's second affidavit, therefore, negated any factual basis for the charged offense. In light of this evidence, Mr. Rideaux has credibly asserted his legal innocence.

Although there was some basis of factual guilt at the entry of plea, Ms. Pruss's second affidavit significantly undermined that basis. The basis of factual guilt was established, in large part, by Ms. Pruss's first affidavit, which stated she was the owner of the car. (R., p.2.) Her statements in the second affidavit, however, plainly contradicted her statements in the first affidavit. As such, Mr. Rideaux's subsequent denial of guilt must be given more consideration than an unsubstantiated assertion of innocence. *See Hanslovan*, 147 Idaho at 537 (defendant's bare assertions of innocence found to be less credible than sworn testimony provided for factual

basis); *Wyatt*, 131 Idaho at 98 ("We conclude that the trial court did not abuse its discretion in denying Wyatt's motion to withdraw his guilty plea on the basis that his unsworn claim was contradicted by his own testimony at the time of his change of plea and no other proof was presented."). Moreover, Mr. Rideaux had a valid reason "why the defense was not put forward at the time of original pleading." *Hanslovan*, 147 Idaho at 537. Mr. Rideaux did not put this defense of legal innocence forward because, clearly, he had no control over if, when, and how Ms. Pruss would recant her first affidavit. Mr. Rideaux simply could not have provided this evidence at the entry of plea. Once Mr. Rideaux received this evidence, he brought it to the district court's attention in a timely manner: Ms. Pruss executed the affidavit on June 5, 2018; Mr. Rideaux's counsel received it on June 18, 2018; Mr. Rideaux was arraigned on July 9, 2018; and Mr. Rideaux moved to withdraw his plea on July 13, 2018. (R., pp.57, 60–61, 62.) Thus, Mr. Rideaux not only credibly asserted his innocence with evidence, but also brought this defense forward soon after it arose.

The other three factors outlined by the *Sunseri* Court were either in Mr. Rideaux's favor or neutral. The time between Mr. Rideaux's guilty plea entry and his filing of the motion to withdraw his plea was neutral because Mr. Rideaux could not have filed the motion until Ms. Pruss's recantation. The year-plus lapse in time was not due to a change of heart or buyer's remorse, but the receipt of exculpatory evidence. This factor should not weigh against withdrawal of his plea. The same goes for the competent counsel factor. Mr. Rideaux had counsel at the time of the entry of plea, but, again, the timing of Ms. Pruss's recantation was not within his counsel's control. Counsel could not have advised Mr. Rideaux on a defense that did not exist at the time of his entry of plea. Accordingly, this factor was neutral as well. Finally, the last factor of inconvenience to the court and waste of judicial resources supported the withdrawal

of the guilty plea. Every plea withdrawal will use some judicial resources and slightly inconvenience the court. There was nothing about Mr. Rideaux's plea withdrawal that would go beyond this expected use of resources and time. In light of his credible assertion of innocence, the State may choose to dismiss or amend the charge. If this case goes to trial, it appears to be a relatively simple case with one key witness: Ms. Pruss. It should not be deemed inconvenient or a waste of resources to allow a defendant with a plausible claim of innocence, supported by new evidence, to withdraw his plea. This factor weighed in Mr. Rideaux's favor.

To summarize, Mr. Rideaux demonstrated a just reason to withdraw his plea. He credibly asserted his innocence and supported his claim with evidence. The other factors—timing, competent counsel, and waste of resources—did not weigh against a just reason determination.

2. The State Did Not Show Any Prejudice, Other Than Its Inability To Secure A Conviction Due To Insufficient Evidence

Once the defendant shows just reason, the burden shifts to the State to establish "substantial prejudice." *Sunseri*, 2018 WL 5628898, at *4. The State here did not meet its burden. The State's sole basis for prejudice was an inability to prove its case based on the likely evidence to be presented at trial. This was not substantial prejudice.

The State must show "more than mere inconvenience" to establish prejudice. *Sunseri*, 2018 WL 5628898, at *4. Examples of prejudice include "the death of a principal witness, the return of evidence to the victims rendering it unavailable to the state, or the passage of time that affects witness memory, especially the memory of a witness with limited mental abilities." *Id.* (citations omitted) (quoting *Hanslovan*, 147 Idaho at 538 n.9). As indicated by these examples, prejudice is typically a new development or external factor that, for some reason unrelated to the withdrawal of the plea, would significantly hinder the State's presentation of its case in chief.

Prejudice is more than the "inconvenience" to the State in going to trial and proving its case beyond a reasonable doubt. That is simply the defendant's exercise of his constitutional rights. Substantial prejudice requires something more. The State cannot show prejudice by relying on same reason the defendant desires to withdraw his plea: legal innocence.

Yet, in this case, the State's prejudice claim was the same. The State argued Mr. Rideaux should not be able to withdraw his plea because it would not be able to prove its case with the evidence before it. Put another way, the State argued it was substantially prejudiced by Mr. Rideaux's innocence. The State argued, if the second affidavit was from Ms. Pruss, "then obviously the State has great prejudice, *because we're not going to be able to prove our case*, because for whatever reason, the victim has done an about-face." (Tr., p.123 (emphasis added) (Vol. III, p.42, Ls.11–17).) The State continued, "[I]f you think that this exhibit from the defense is really from her, you have evidence that she's backtracked. *So, the prejudice to the State, assuming it really is from the victim, and that really is her position, is great. And we can't prove the case at all.*" (Tr., p.123 (emphasis added) (Vol. III, p.42, Ls.19–23).) Other than Mr. Rideaux's innocence, the State asserted no other prejudice, such as trial costs, destruction of evidence, or a witness's memory loss. Therefore, the State did not establish "substantial prejudice" by allowing Mr. Rideaux to withdraw his guilty plea.

3. The District Court Did Not Properly Weigh Mr. Rideaux's Just Reason Against The State's Invalid Prejudice Claim

In light of Mr. Rideaux's just reason and the State's lack of prejudice, the district court abused its discretion by denying Mr. Rideaux's motion to withdraw his guilty plea. Specifically, the district court failed to apply the correct legal standards by rejecting Mr. Rideaux's just reason and finding the State would suffer prejudice.

In reviewing Mr. Rideaux's just reason, the district court weighed only Mr. Rideaux's factual basis at the entry of plea against Ms. Pruss's affidavits. The district court found "the most compelling evidence" to be Mr. Rideaux's admissions under oath. (Tr., pp.131–32 (Vol. III, p.50, L.25–p.51, L.2; *see also* Tr., p.131 (Vol. III, p.50, Ls.2–11).) The district court found Ms. Pruss's "alternating" affidavits to be "less compelling than that." (Tr., p.132 (Vol. III, p.51, Ls.3–4).) The district court, however, did not make an explicit credibility finding between Mr. Rideaux's factual basis at the entry of plea and his new testimony asserting his innocence. (*See* Tr., pp.128–32 (Tr. Vol. III, p.47, L.5–p.51, L.9).) If anything, the district court found Mr. Rideaux's assertion of innocence to be credible because, at sentencing, the district court stated, "I just don't think there's evidence that you were in possession of a stolen vehicle. I think you were in possession of a contested vehicle."[2] (Tr., p.54 (Tr. Vol. II, p.47, Ls.6–9).) Nevertheless, the district court made no credibility determination on Mr. Rideaux's testimony at the hearing on his motion to withdraw his plea. Further, the district court's finding of "compelling" facts does not equate to "credible" facts. The district court essentially supplanted the role of the jury and weighed the evidence to be presented at trial. It found one version of events more compelling than the other. That is not the proper legal standard. The district court first should have determined whether Mr. Rideaux had a just reason to withdraw his plea and, if so, weighed it against the State's claim of prejudice. The district court did not apply the correct legal standards. Application of the correct legal standards, including the *Sunseri* factors, proves Mr. Rideaux had a just reason to withdraw his guilty plea.

Turning to prejudice, the district court also did not apply the correct legal standards

[2] The district court also stated "the real crime here" was the fact that Mr. Rideaux did *not* tell the truth *at the entry of plea hearing*. (Tr., p.53 (emphasis added) (Vol. II, p.46, Ls.14–22).)

because the State, in fact, did not have any prejudice. The district court found, "I think the prejudice to the State is significant here to try to prosecute this case under the circumstances as the Court sees it." (Tr., p.130 (Vol. III, p.49, Ls.9–12).) The State's inability to prosecute the case—not because evidence was destroyed or a witness was unavailable, but because the victim recanted—was not substantial prejudice. The district court did not apply the correct legal standards in finding prejudice to the State under these facts.

On balance, the district court abused its discretion by denying Mr. Rideaux's motion to withdraw his guilty plea. Mr. Rideaux established a just reason to withdraw his plea, and the district court did not properly analyze his just reason in light of the applicable legal standards. Moreover, the State had no prejudice from the plea withdrawal, and the district court did not properly weigh the lack of prejudice against Mr. Rideaux's just reason. The denial of Mr. Rideaux's motion to withdraw his plea was therefore an abuse of discretion.

CONCLUSION

Mr. Rideaux respectfully requests this Court vacate the district court's judgment of conviction, reverse the district court's order denying his motion to withdraw his guilty plea, and remand this case with instructions for the district court to enter an order granting his motion to withdraw his plea. Alternatively, he respectfully requests this Court vacate the district court's judgment of conviction and its order denying his motion to withdraw his guilty plea and remand this case for further proceedings.

DATED this 30th day of April, 2019.

/s/ Jenny C. Swinford
JENNY C. SWINFORD
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of April, 2019, I caused a true and correct copy of the foregoing APPELLANT'S BRIEF, to be served as follows:

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/s/ Evan A. Smith
EVAN A. SMITH
Administrative Assistant

JCS/eas