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State v. Riggins Appellant's Brief Dckt. 42688

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)
)
 Plaintiff-Respondent,) NO. 42688
)
 v.) BONNER COUNTY NO. CR 2013-5834
)
 JOSHUA RIGGINS,) APPELLANT'S BRIEF
)
 Defendant-Appellant.)

COPY

BRIEF OF APPELLANT

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

HONORABLE BARBARA BUCHANAN
District Judge

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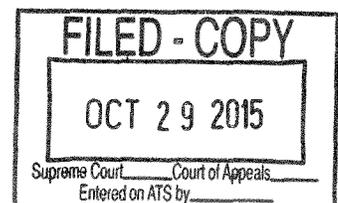


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STATEMENT OF THE CASE

Nature of the Case

This case raises an apparent issue of first impression in Idaho: Whether a district court has the authority to grant the State's motion to reconsider its order withdrawing a defendant's guilty plea. Two months after the district court allowed Joshua Riggins to withdraw his guilty plea and just three weeks short of trial, it granted the State's motion to reconsider that decision. By unilaterally declaring Mr. Riggins guilty and taking away his constitutional rights to a jury trial, to remain silent, and to confront the witnesses against him, the court exceeded its authority and denied Mr. Riggins due process of law. This Court should vacate Mr. Riggins' conviction and the order granting the State's motion to reconsider, and remand to the district court for trial.

Statement of Facts and Course of Proceedings

During a traffic stop in October 2013, officers allegedly found marijuana and paraphernalia in Mr. Riggins' car, and a small amount of methamphetamine in his pocket. (PSI, p.3) The State charged Mr. Riggins with felony possession of methamphetamine, misdemeanor possession of marijuana, and misdemeanor possession of paraphernalia. (R., pp.76–77.) Mr. Riggins later pled guilty to possession of methamphetamine, and the State dismissed the misdemeanors. (R., pp.94–105, 107–08; 3/17/14 Tr.¹)

At what was supposed to be the sentencing hearing, Mr. Riggins asked for a continuance so that he could move to withdraw his guilty plea. (6/2/14 Tr.) He told the court: "I was supposed to be taking antidepressants at the time . . . I wasn't take [sic] my meds at that point."

¹ At the plea hearing, the court told Mr. Riggins that "by entering into this agreement, you waive your right to appeal your conviction and the right to appeal your sentence, except to the extent that a judge imposes a greater sentence than the State recommended." (3/17/14 Tr., p.4, Ls.19–23.) Because that plea was later withdrawn and reinstated against Mr. Riggins' will, his appeal is properly before this Court.

(6/2/14 Tr., p.5, Ls.5–8.) Mr. Riggins then filed a motion to withdraw his guilty plea and to substitute private counsel. (R., pp.110–11.) He told the court that he was innocent and believed the evidence showed as much. (6/20/14 Tr., p.6, Ls.3–14.) The State opposed the motion, arguing that the plea was knowing, intelligent, and voluntary; Mr. Riggins’ claimed innocence was not enough to undo his plea; Mr. Riggins’ counsel was effective; and Mr. Riggins already looked at his PSI²; and withdrawing the plea would prejudice the State because it had dismissed the two misdemeanors with prejudice and the delay would adversely impacts its witnesses’ memories. (R., pp.114–18; 6/20/14 Tr., p.4, Ls.4–14.) The court noted that there was some prejudice to the State since it had dismissed the two misdemeanor charges as part of the plea, but allowed Mr. Riggins to withdraw his plea. (6/20/14 Tr., p.9, L.19 – p.10, L.3.) It explained that it was “loathe to force a person to be sentenced when they’re maintaining their innocence,” and that there was some concern about his psychiatric condition when he pled guilty. (6/20/14 Tr., p.6, L.16 – p.7, L.11; *see also* R., p.134.)

Two months later, and a little less than three weeks before trial was set to begin (R., p.147), the State filed a motion to reconsider the order granting Mr. Riggins’ motion to withdraw his plea. (R., pp.153–57). In addition to its original arguments, the State told the court that the arresting officer in the case had since taken a job as an undercover agent in Montana and therefore was “unable to attend any trial of this matter at all” because it would jeopardize his pending investigations. (R., p.154; *see also* R., pp.156–58.)

The court granted the State’s motion, explaining that “there is no meaningful indication in the record that Riggins’ depression rose to a level that rendered his guilty plea constitutionally involuntary,” and that the State was prejudiced by Mr. Riggins’ withdrawal of his plea because it had dismissed two misdemeanor counts as part of the plea and “a necessary State’s witness—the

² The PSI recommended probation. (PSI, p.18.)

primary arresting officer—ha[d] become completely unavailable for trial.” (R., pp.163– 64; *see also* 8/22/14 Tr., p.4, L.20 – p.5, L.19.)

The court reinstated Mr. Riggins’ plea, sentenced Mr. Riggins to three years, with one year fixed, suspended the sentence, and placed him on probation. (R., pp.195–97; *see also* 251–52.) Mr. Riggins timely appealed. (R., pp.208–09; *see also* R., pp.257–58.)

ISSUE

Did the district court err by granting the State's motion for reconsideration because the court did not have the authority to reinstate Mr. Riggins' guilty plea?

ARGUMENT

The District Court Did Not Have The Authority To Reinstate Mr. Riggins' Guilty Plea, And So It Erred By Granting The State's Motion For Reconsideration

This Court reviews questions of law *de novo*. *Pizzuto v. State*, 134 Idaho 793, 795 (2000). With respect to unobjected-to errors, “the defendant bears the burden of persuading the appellate court that the alleged error: (1) violates one or more of the defendant’s unwaived constitutional rights; (2) plainly exists . . . ; and (3) was not harmless. *State v. Perry*, 150 Idaho 209, 228 (2010).

Here, Mr. Riggins objected to the State’s motion for reconsideration, but not on the grounds that the court lacked the authority to reinstate his guilty plea. The district court’s error, however, violated Mr. Riggins’ unwaived constitutional rights, is clear from the record, and cannot be harmless. This Court should therefore vacate Mr. Riggins’ judgment of conviction and its order granting the State’s motion to reconsider the withdrawal of Mr. Riggins’ guilty plea, and remand to the district court for trial.

Criminal defendants enjoy the right to a trial by jury, to remain silent, and to confront the witnesses against him. U.S. CONST. amend. VI (“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed”); IDAHO CONST. art. I, § 7 (“The right of trial by jury shall remain inviolate”). When a defendant pleads guilty, he waives these fundamental rights. *Parke v. Raley*, 506 U.S. 20, 29 (1992); I.C.R. 11(c)(3). Similarly, when a court withdraws that plea, it returns to the defendant to his status quo ante. He regains his right to a trial by jury, to remain silent, and to confront the witnesses against him, not to mention his innocence. In other words, once the pleas is withdrawn, it is as though the plea never existed in the first place. *Williams v. State*, 762 So. 2d 990, 991 (Fla. Dist. Ct. App. 2000) (explaining that “[w]hen a plea of guilty or nolo contendere is withdrawn and accepted by the court, it is as if the

plea had never been entered ab initio,” and so the district court could not reconsider its decision).³ Therefore, a district court has no authority to reconsider an order granting the defendant’s motion to withdraw his plea. Once the plea has been withdrawn, it cannot simply be reinstated.

The logic and policy underpinning this rule is persuasive. Unlike most orders, an order withdrawing a defendant’s guilty plea necessarily returns to the defendant all of the rights he waived by pleading guilty. He is once again presumed innocent and had the right to a jury trial, to remain silent, and to confront the witnesses against him. Allowing the district court to reconsider an order withdrawing a guilty plea in effect allows the district court to unilaterally declare the defendant’s guilt; take away his rights to a trial by jury, to remain silent, and to confront the witnesses against him; and in turn denies the defendant due process of law. *See* U.S. CONST. amend. V (the state cannot deprive a person of “life, liberty, or property, without due process of law”); IDAHO CONST. art. I, § 13 (“No person shall . . . be deprived of life, liberty or property without due process of law.”).

Further, allowing reconsideration of an order withdrawing a guilty plea gives the state the unfounded ability to force a defendant to plead guilty if it learns—even months after the defendant withdraws his plea—that the case against him has fallen apart. For example, the State can ask the court to reinstate that plea by showing that *now* it is prejudiced because a witness is unavailable or the alleged victim has recanted. Such developments have no relation whatsoever to a defendant’s guilt, do not necessarily relate to any delay caused by a defendant’s decision to withdraw his plea, and cannot trump a defendant’s constitutional right to be presumed innocent

³ *But see People v. Bryant*, 860 N.E.2d 511 (Ill. Ct. App. 2006) (holding that the court could reconsider and vacate its order granting the defendant’s motion to withdraw his guilty plea).

unless and until a jury finds him guilty. In short, the State cannot use its inability to win a conviction to justify declaring the defendant guilty.

Yet that is precisely what happened here. Two months passed between when Mr. Riggins withdrew his plea and the State moved for reconsideration. During that time, Mr. Riggins was presumed innocent. He was preparing for trial, as was his constitutional right. Then—less than three weeks before trial—the State learned that one of its witnesses was “unavailable.” Although Mr. Riggins disagrees that the witness was actually unable to testify, that sort of belated discovery could not justify forcing Mr. Riggins to plead guilty. Indeed, had Mr. Riggins never pled guilty in the first place, the court would not have been able to declare Mr. Riggins guilty simply because the State’s case against him had fallen apart. But that is just what the district court did. It unilaterally declared Mr. Riggins guilty and took away his fundamental constitutional rights without any due process whatsoever because the State believed it would be unable to secure a conviction at trial.⁴

When the court granted the State’s motion to reconsider, Mr. Riggins was presumed innocent and enjoyed all of the rights attendant to that presumption. The district court had no authority to declare Mr. Riggins guilty and take away those rights by reconsidering its order granting Mr. Riggins’ motion to withdraw his plea. In doing so, the court violated Mr. Riggins’ unwaived fundamental constitutional rights. *See Perry*, 150 Idaho at 228. The court’s error is clear from the record (6/20/14 Tr.; 8/22/14 Tr; R., pp.134, 160–64), and cannot be harmless—

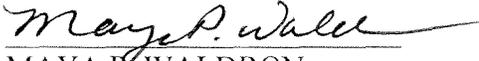
⁴ Mr. Riggins also contends that the State’s motion was untimely and improperly rested on factual information not originally considered by the district court, though he acknowledges he cannot raise that argument under fundamental error. Because it appears this Court has not decided whether consideration new information is proper in a motion to reconsider filed in a criminal case, and the usual time limits are inapplicable to the reconsideration of motions to withdraw a guilty plea, *see First Bank & Trust of Idaho v. Parker Bros.*, 112 Idaho 30, 32 (1986) (holding that “motions for reconsideration presumably must be identified as asserting one of the grounds for relief recognized in one of our existing rules, and then must be filed within the time provided in that existing rule”), Mr. Riggins asks this Court for its guidance on those issues.

absent those violations, Mr. Riggins would have taken his case to a jury. *See Perry*, 150 Idaho at 228. This Court should vacate Mr. Riggins' conviction and the order reinstating his guilty plea and remand this case to the district court for trial.

CONCLUSION

Mr. Riggins respectfully requests that this Court vacate his judgment of conviction, withdraw his guilty plea, and remand to the district court for trial.

DATED this 29th day of October, 2015.


MAYA P. WALDRON
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 29th day of October, 2015, I served a true and correct copy of the foregoing APPELLANT'S BRIEF, by causing to be placed a copy thereof in the U.S. Mail, addressed to:

JOSHUA RIGGINS
6893 RIVER ROAD
CLARK FORK ID 83811

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DISTRICT COURT JUDGE
E-MAILED BRIEF

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Hand delivered to Attorney General's mailbox at Supreme Court.

A handwritten signature in black ink, appearing to read "Evan A. Smith", written over a horizontal line.

EVAN A. SMITH
Administrative Assistant

MPW/eas