

NOTICE
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2012 IL App (4th) 110260-U

Filed 8/28/12

NO. 4-11-0260

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from
Plaintiff-Appellee,)	Circuit Court of
v.)	Champaign County
LONNIE F. PATTERSON,)	No. 11CF94
Defendant-Appellant.)	
)	Honorable
)	John R. Kennedy,
)	Judge Presiding.

JUSTICE POPE delivered the judgment of the court.
Presiding Justice Turner and Justice Appleton concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court granted appointed counsel's motion to withdraw as counsel because no meritorious issues were raised and affirmed the trial court's denial of defendant's motion to withdraw guilty plea.

¶ 2 This case comes to us on motion of the office of the State Appellate Defender (OSAD) to withdraw as counsel on appeal pursuant to *Anders v. California*, 386 U.S. 738 (1967), because no meritorious issues can be raised in this case. For the following reasons, we agree and affirm.

¶ 3 I. BACKGROUND

¶ 4 On January 18, 2011, the State charged defendant, Lonnie F. Patterson, with domestic battery with a prior domestic battery conviction, a Class 4 felony (720 ILCS 5/12-3.2(a)(1), (b) (West 2010)). The State alleged defendant grabbed Melissa Patterson, a household or family member, by the jaw and pushed her, causing bodily harm.

¶ 5 On February 1, 2011, defendant appeared before the trial court. The court admonished defendant of the charges against him and the possible sentences. The court admonished defendant of his right to a jury or bench trial and the rights he would be waiving by pleading guilty.

¶ 6 In exchange for defendant's guilty plea, the State recommended defendant be sentenced to 24 months' probation "with the standard rules and conditions" and 18 days in prison with credit for 18 days served; defendant would pay various costs and fees; and the State would agree not to seek revocation of defendant's probation in case No. 10-CF-779. Defendant verified the plea agreement was correct, confirmed he was not promised anything different than presented, and stated he was pleading guilty of his own free will.

¶ 7 The State provided the trial court with a factual basis for the charge. The evidence would show defendant had previously been convicted of domestic battery. Further, on January 15, 2011, defendant and his wife had an argument that turned violent, resulting in defendant grabbing his wife by the jaw and pushing her and causing her bodily harm. Defense counsel agreed to the factual basis. The court found a factual basis for the charge existed, defendant understood his rights, and defendant voluntarily pleaded guilty. The court accepted defendant's guilty plea, and defendant waived a presentence investigation report. The court sentenced defendant in accordance with the plea agreement and admonished defendant of his appellate rights.

¶ 8 On February 4, 2011, defendant filed a *pro se* motion to withdraw guilty plea, stating, "I feel I ma[d]e the wrong decision. Plea[ded] guilty to get out of jail not knowing the victim wasn't pressing charges." On March 1, 2011, defense counsel filed a motion to withdraw

guilty plea, stating defendant entered a guilty plea "to get released from jail" and defendant did not know the victim did not want to press charges when he entered his plea.

¶ 9 On March 24, 2011, the trial court held a hearing on defendant's motion to withdraw guilty plea. Defendant testified he pleaded guilty because he "had a job" and "other obligations." Defendant did not want to plead guilty but it was the only way for him to get "out there to do what [he] needed to do." The court asked defendant if he wanted to have a trial in this matter and he responded, "At the time I just wanted to get out of jail."

¶ 10 The trial court denied defendant's motion to withdraw guilty plea. The court found defendant knowingly and voluntarily pleaded guilty. The court further found defendant was properly admonished and was not coerced into pleading guilty.

¶ 11 Defendant appealed, and the trial court appointed OSAD to represent him. OSAD filed a motion to withdraw, attaching to its motion a brief conforming to the requirements of *Anders v. California*, 386 U.S. 738 (1967). On its own motion, this court granted defendant leave to file additional points and authorities by April 4, 2012. Defendant has not done so. After examining the record and executing our duties in accordance with *Anders*, we grant OSAD's motion and affirm the trial court's judgment.

¶ 12 II. ANALYSIS

¶ 13 OSAD asserts it would be frivolous to argue the trial court abused its discretion in denying defendant's motion to withdraw guilty plea because defendant voluntarily and knowingly pleaded guilty. We agree.

¶ 14 We review the trial court's denial of a motion to withdraw guilty plea for an abuse of discretion. *People v. Dougherty*, 394 Ill. App. 3d 134, 140, 915 N.E.2d 442, 447 (2009). A

defendant does not have an absolute right to withdraw a guilty plea. *People v. Feldman*, 409 Ill. App. 3d 1124, 1127, 948 N.E.2d 1094, 1098 (2011). A defendant will be allowed to withdraw a guilty plea "only to correct a manifest injustice under the facts involved." *Feldman*, 409 Ill. App. 3d at 1127, 948 N.E.2d at 1098. Leave to withdraw will be granted if the defendant can show "(1) the plea was entered on a misapprehension of the facts or the law, (2) there is doubt as to the guilt of the accused, (3) the accused has a meritorious defense, or (4) the ends of justice will be better served by submitting the case to a jury." *Dougherty*, 394 Ill. App. 3d at 140, 915 N.E.2d at 447.

¶ 15 Defendant seeks to withdraw his guilty plea because he entered the plea to get out of jail and because he did not know at the time his wife did not want to pursue charges against him. Defendant does not state a sufficient ground upon which to grant his motion to withdraw guilty plea. Defendant has not alleged a misapprehension of the facts or the law or that he is innocent of or possesses a meritorious defense to the crime. The record shows defendant was properly admonished at his guilty plea hearing and voluntarily and knowingly entered the guilty plea.

¶ 16 Because any argument the trial court abused its discretion in denying defendant's motion to withdraw guilty plea would be frivolous, we grant OSAD's motion to withdraw as counsel on appeal.

¶ 17 III. CONCLUSION

¶ 18 Based on the foregoing, we grant OSAD's motion to withdraw and affirm the trial court's judgment.

¶ 19 Affirmed.