

IN THE SUPREME COURT  
STATE OF NORTH DAKOTA

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State of North Dakota,  
Petitioner,

Supreme Court No.

vs.

The Honorable Donald Hager,  
Judge of the District Court,  
Northeast Central Judicial District, and  
Matthew John Olson,  
Respondents.

Grand Forks Co. No. 18-2014-CR-01652

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**RESPONSE TO PETITION FOR SUPERVISORY WRIT**

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STATEMENT OF THE ISSUE

I. Did the District Court abuse its discretion in allowing Mr. Olson to withdraw his guilty pleas?

## LAW AND ARGUMENT

- I. The District Court did not abuse its discretion in allowing Mr. Olson to withdraw his guilty pleas.

[¶1] Rule 11(d) of the North Dakota Rules of Criminal Procedure provide:

(1) *In General.* A defendant may withdraw a plea of guilty:

- (A) before the court accepts the plea, for any reason or no reason; or
- (B) after the court accepts the plea, but before it imposes sentence if:
  - (i) the court rejects a plea agreement under Rule 11(c)(5); or
  - (ii) the defendant can show a fair and just reason for the withdrawal.

(2) *Finality of a Guilty Plea.* Unless the defendant proves that withdrawal is necessary to correct a manifest injustice, the defendant may not withdraw a plea of guilty after the court has imposed sentence.

(3) *Prosecution Reliance on Plea.* If the prosecution has been substantially prejudiced by reliance on the defendant's plea, the court may deny a plea withdrawal request.

[¶2] “After a guilty plea is accepted, but before sentencing, the defendant may withdraw a guilty plea if necessary to correct a manifest injustice, or, if allowed in the court's discretion, for any ‘fair and just’ reason unless the prosecution has been prejudiced by reliance on the plea.” State v. Klein, 1997 ND 25, ¶ 13, 560 N.W.2d 198. When a court has accepted a plea and imposed sentence, the defendant cannot withdraw the plea unless withdrawal is necessary to correct a manifest injustice. Froistad v. State, 2002 ND 52, ¶ 9, 641 N.W.2d 86. “The decision whether a manifest injustice exists for withdrawal of a guilty plea lies within the trial court's discretion and will not be reversed on appeal except for an abuse of discretion.” State v. Abdullahi, 2000 ND 39, ¶ 7, 607 N.W.2d 561 (citing State v. Hendrick, 543 N.W.2d 217,

219 (N.D.1996)). An abuse of discretion occurs when the court's legal discretion is not exercised in the interest of justice. Abdullahi, at ¶ 7 (citing State v. Dalman, 520 N.W.2d 860, 862 (N.D.1994)). The trial court must exercise its sound discretion in determining whether a “manifest injustice” or a “fair and just reason” to withdraw a guilty plea exists. *See* Froistad, at ¶ 9; Abdi v. State, 2000 ND 64, ¶ 10, 608 N.W.2d 292.

[¶3] The Defendant has the burden to show a fair and just reason to withdraw his guilty plea. In this case, the District Court reviewed the briefs of the parties, heard arguments from counsel, reviewed the transcripts of the pretrial conference, and conducted research regarding the law. The Court made detailed findings regarding its decision to allow Mr. Olson to withdraw his guilty pleas and specifically found that “the Defendant has established a fair and just reason to support his request to withdraw his guilty pleas to the charges identified in the Information.” The Court did not abuse its discretion in allowing Mr. Olson to withdraw his guilty plea.

[¶4] In its petition, the State focuses largely on future, hypothetical defendants asking to withdraw their guilty plea. In paragraph 19, the State argues that this case is far more reaching than just this one case. This is simply not true. When a defendant makes a motion to withdraw a guilty plea the Court evaluates that case individually. N.D.R.Crim.P. 11 provides a clear direction for a defendant wanting to withdraw a guilty plea. Withdrawing a guilty plea is never automatic and is reviewed by the Court on a case by case basis.

[¶5] Additionally, the State argues that “the standard for a fair and just reason to withdraw a guilty plea is practically standardless if the minimum is a ‘believable

argument’ “. Petitioner’s Brief ¶19. Just because the State does not like the standard used in withdrawing a guilty plea does not mean that the Court can or should change that standard. In this case, the Court applied the law, which included applying the standard of a fair and just reason. The Court found that Mr. Olson established a fair and just reason to support his request to withdraw his guilty pleas and used its sound discretion in determining Mr. Olson could withdraw his guilty plea and

#### CONCLUSION

[¶6] The District Court did not abuse its discretion in allowing Mr. Olson to withdraw his guilty pleas. Mr. Olson respectfully requests this Court to deny the State’s Petition for a Supervisory Writ.

Dated this 2<sup>nd</sup> Day of June, 2015:

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**AFFIDAVIT OF SERVICE**

The undersigned, being of legal age, being first duly sworn deposes and says that on the 2<sup>nd</sup> day of June, 2015, she served true copies of the following documents:

Response to Petition for Supervisory Writ


And that said copies were served upon:

Donald Hager  
Judge of the District Court  
Grand Forks County  
Email: [dhager@nd.courts.gov](mailto:dhager@nd.courts.gov)


Carmell F. Mattison  
Grand Forks County  
Assistant State's Attorney  
Email: [sasupportstaff@gfcounty.org](mailto:sasupportstaff@gfcounty.org)

by email.

Dated this 2<sup>nd</sup> day of June, 2015.

  
\_\_\_\_\_  
Holly Bicker

Subscribe and sworn to before me this 2<sup>nd</sup> day of June, 2015.

  
\_\_\_\_\_  
Notary Public  
County of Grand Forks  
State of North Dakota

