

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NOS. C-160808
		C-160829
Plaintiff-Appellee,	:	TRIAL NO. B-1506185
vs.	:	<i>JUDGMENT ENTRY.</i>
JALEEL SMITH-RILEY,	:	
Defendant-Appellant.	:	

We consider these appeals on the accelerated calendar, and this judgment entry is not an opinion of the court. See Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant Jaleel Smith-Riley¹ was indicted for the following offenses: aggravated murder with an accompanying death-penalty specification, murder, two counts of felonious assault, attempted murder, and aggravated robbery. Each count carried accompanying firearm specifications.

Smith-Riley pled guilty to aggravated murder with an accompanying firearm specification, and attempted murder. The remaining counts and specifications, including the death-penalty specification, were dismissed. Prior to sentencing, Smith-Riley filed a motion to withdraw his guilty plea, against the advice of his counsel. Following a hearing, the trial court denied the motion. The trial court sentenced Smith-Riley to life imprisonment without the possibility of parole for the

¹ The appellant's name also appears in the record as Jaleel Riley-Smith.

offense of aggravated murder, and it imposed three years' imprisonment for the accompanying firearm specification. Smith-Riley was sentenced to 11 years' imprisonment for the offense of attempted murder. The trial court ordered these sentences to be served consecutively.

Smith-Riley has appealed, arguing in a single assignment of error that the trial court erred in the imposition of sentence by improperly sentencing him to consecutive, maximum sentences. Under R.C. 2953.08(G)(2), we may only vacate or modify a defendant's sentence if we clearly and convincingly find that the record does not support any mandatory sentencing findings or that the sentence imposed is otherwise contrary to law. *State v. Marcum*, 146 Ohio St.3d 516, 2016-Ohio-1002, 59 N.E.3d 1231, ¶ 1; *State v. White*, 2013-Ohio-4225, 997 N.E.2d 629, ¶ 11 (1st Dist.).

Smith-Riley first argues that the trial court erred by imposing consecutive sentences without making the findings required by R.C. 2929.14(C)(4). The record belies his contention. The trial court made the necessary findings to support the imposition of consecutive sentences, and it incorporated those findings into the sentencing entry. It was not required to provide reasons in support of its findings, which were supported by the record. *State v. Bonnell*, 140 Ohio St.3d 209, 2014-Ohio-3177, 16 N.E.3d 659, ¶ 37.

Smith-Riley next contends that the trial court failed to consider the purposes and principles of sentencing. The trial court is not required to make specific findings on the record with respect to the purposes and principles of sentencing set forth in R.C. 2929.11 and 2929.12, and we may presume that the trial court considered them, unless the defendant affirmatively demonstrates otherwise. *State v. McGee*, 1st Dist. Hamilton No. C-150496, 2016-Ohio-7510, ¶ 33. In this case, the trial court stated on the record that it had considered Smith-Riley's arguments for mitigation, but that it

could not overlook the seriousness of the offenses. Smith-Riley has not demonstrated that the trial court failed to consider the purposes and principles of sentencing.

Smith-Riley further contends that the trial court failed to notify him that he should not ingest or inject a drug of abuse, and that he would be required to submit to random drug tests while incarcerated. The record indicates that the trial court did, in fact, inform Smith-Riley of these notifications. But even if the court had failed to do so, any resulting error would be harmless, as these notifications do not confer a substantive right on a defendant. *State v. Haywood*, 1st Dist. Hamilton No. C-130525, 2014-Ohio-2801, ¶ 18.

Smith-Riley additionally argues that the trial court erred in denying his presentence motion to withdraw his guilty pleas. We review the trial court's ruling on a presentence motion to withdraw a guilty plea for an abuse of discretion. *State v. Xie*, 62 Ohio St.3d 521, 527, 584 N.E.2d 715 (1992). While presentence motions to withdraw should be freely and liberally granted, a defendant does not have an absolute right to withdraw a plea before being sentenced. *Id.*

After considering all relevant factors, we find that the trial court did not abuse its discretion in denying Smith-Riley's motion to withdraw. *See State v. Fish*, 104 Ohio App.3d 236, 240, 661 N.E.2d 788 (1st Dist.1995), *overruled on other grounds*, *State v. Sims*, 1st Dist. Hamilton No. C-160856, 2017-Ohio-8379, ¶ 15; *Haywood* at ¶ 5. Smith-Riley was represented by highly competent counsel, and he was accorded a complete Crim.R. 11 colloquy before the trial court accepted his guilty pleas. The record shows that Smith-Riley understood the nature of the charges and the possible penalties. The trial court held a full hearing on the motion to withdraw, and gave full and fair consideration to the motion. Further, Smith-Riley has not alleged that he

was possibly not guilty of, or had a complete defense to, the offenses charged. Rather, the sole reason advanced in support of the motion to withdraw was that Smith-Riley wished to have his sentence imposed by a jury, rather than the trial court, even though he recognized that this would place him at risk of receiving the death penalty. But a mere change of heart is not a reasonable ground to support a motion to withdraw. *State v. Feller*, 2012-Ohio-6016, 985 N.E.2d 210, ¶ 29 (1st Dist.).

We hold that the trial court did not err in the imposition of sentence or the denial of the motion to withdraw Smith-Riley's plea. We therefore overrule Smith-Riley's assignment of error. The judgment of the trial court is accordingly affirmed.

A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

CUNNINGHAM, P.J., ZAYAS and MYERS, JJ.

To the clerk:

Enter upon the journal of the court on December 1, 2017
per order of the court _____
Presiding Judge