

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

STATE OF OHIO,	:	APPEAL NO. C-150725
Plaintiff-Appellee,	:	TRIAL NO. B-1502916
vs.	:	<i>JUDGMENT ENTRY.</i>
RAYSHAWN HERALD,	:	
Defendant-Appellant.	:	

We consider this appeal 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.

Rayshawn Herald appeals his convictions for having a weapon while under a disability and discharging a firearm on or near prohibited premises. We affirm his convictions.

Mr. Herald was indicted for having a weapon while under a disability, carrying a concealed weapon, discharging a firearm on or near prohibited premises, and receiving stolen property. After initialing rejecting a plea offer from the state, Mr. Herald pled guilty to having a weapon while under a disability and discharging a firearm, and the state agreed to dismiss the remaining charges. The court accepted the pleas and scheduled a sentencing hearing. Prior to the sentencing hearing, Mr. Herald moved to withdraw his guilty pleas. Following a hearing on the motion, the court denied the motion and subsequently sentenced Herald to two consecutive 36-month terms.

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Herald's sole assignment of error is that the court abused its discretion when it denied his presentence motion to withdraw his guilty pleas. *See* Crim.R. 32.1; *State v. Xie*, 62 Ohio St.3d 521, 584 N.E.2d 715 (1992), paragraph two of the syllabus.

During the hearing on Herald's motion, the trial court was guided by the factors outlined by this court in *State v. Haywood*, 1st Dist. Hamilton No. C-130525, 2014-Ohio-2081, ¶ 5; *see State v. Fish*, 104 Ohio App.3d 236, 661 N.E.2d 788 (1st Dist.1995). The court noted that Herald had been represented by competent counsel, that the court had conducted a full Crim.R. 11 colloquy with Herald before accepting the pleas, that the motion was timely filed, and that the state had not shown that it would be prejudiced if the court granted the motion. Mr. Herald cited two reasons for his motion to withdraw his pleas: he wished to negotiate an agreed sentence with the state and claimed he was not guilty of the discharging-a-firearm count because he had acted in self-defense. Notably, Mr. Herald had never before suggested that he had an affirmative defense to either count. And based on his argument during the hearing, it was unlikely that the defense would be successful. Rather than being based on the possibility that Herald wasn't guilty of the crimes to which he pled, it appears that Herald's motion to withdraw his pleas resulted from a change of heart on his part. We conclude that the court's denial of the motion did not amount to an abuse of discretion. The sole assignment of error is overruled, and we therefore affirm judgment of the trial court.

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

FISCHER, P.J., DEWINE and MOCK, JJ.

To the clerk:

Enter upon the journal of the court on October 19, 2016
per order of the court _____.

Presiding Judge