COURT OF APPEALS OF VIRGINIA

Record No. 0751-25-1

KEVIN RAMONT-LAMONT ALLEN, S/K/A
KEVIN RAYMOND LAMONT ALLEN
v.
COMMONWEALTH OF VIRGINIA

Present: Judges O'Brien, Athey and White

Opinion Issued October 6, 2026*

FROM THE CIRCUIT COURT OF THE CITY OF NEWPORT NEWS
Gary A. Mills, Judge

(Charles E. Haden, on brief), for appellant.

(Jason S. Miyares,[1] Attorney General; Mason D. Williams, Assistant Attorney General, on brief), for appellee.

MEMORANDUM OPINION
PER CURIAM

Following his guilty pleas, the circuit court convicted Kevin Ramont-Lamont Allen of two counts of possessing with intent to distribute a Schedule I/II substance. The court sentenced him to 40 years' incarceration, with 33 years and 2 months suspended, for a total active sentence of 6 years and 10 months. Although Allen never moved to withdraw his guilty pleas, he now argues that the court erred in accepting them because "the pleas were not entered voluntarily, knowingly, and intelligently." He further argues that the court abused its discretion by

* This opinion is not designated for publication. *See* Code § 17.1-413(A).

[1] Jay C. Jones succeeded Jason S. Miyares as Attorney General on January 17, 2026.

sentencing him without "giv[ing] adequate weight to certain mitigating factors." Finding no error, we affirm the court's decisions.[2]

BACKGROUND

"We recite the facts in the light most favorable to the Commonwealth, the prevailing party below." *McCumber v. Commonwealth*, 88 Va. App. 169, 173 (2026). "Doing so requires that we 'discard' the defendant's evidence when it conflicts with the Commonwealth's evidence, 'regard as true all the credible evidence favorable to the Commonwealth,' and read 'all fair inferences' in the Commonwealth's favor." *Id.* (quoting *Camann v. Commonwealth*, 79 Va. App. 427, 431 (2024) (en banc)).

Allen entered guilty pleas to two counts of possessing with intent to distribute a Schedule I/II substance. In exchange for the pleas, the Commonwealth agreed to dismiss four indictments against Allen and ask the court to impose an active sentence of no more than five years and seven months' incarceration, or the midpoint of the sentencing guidelines as determined by probation, whichever was higher.

At a hearing, the court conducted a colloquy with Allen to determine that his pleas were knowing, voluntary, and made intelligently. Allen represented to the court that he was entering his pleas after consulting with and being advised by his attorney and his pleas were voluntary. He stated that he had not consumed alcohol, medication, or illicit drugs in the last 12 hours and did not have any mental condition that impaired his ability to understand the proceedings or assist his attorney. He affirmed that he discussed with his attorney how to plead, decided to plead guilty on his own, and was pleading because he was, in fact, guilty.

[2] Having examined the briefs and record in this case, the panel unanimously agrees that oral argument is unnecessary because "the appeal is wholly without merit." Code § 17.1-403(ii)(a); Rule 5A:27(a).

Allen also represented that he had sufficient time to consult with his attorney regarding possible defenses and had reviewed the evidence in the Commonwealth's file and the elements the Commonwealth would have to prove for a conviction. He stated that he fully understood the charges against him and that, by pleading guilty, he was giving up the presumption of innocence, the right to require the Commonwealth to prove his guilt, the privilege against self-incrimination, the right to a jury trial, and the right to confront and cross-examine witnesses against him. He acknowledged that a guilty plea is a "self-sustained conviction." Allen affirmed that no one had made any promises to him regarding his pleas, other than those in the plea agreement, and he understood the court was not bound by the guidelines or the Commonwealth's sentencing recommendation.

The Commonwealth summarized the evidence against Allen, including the fact that when the police stopped Allen's vehicle they found a scale with what appeared to be cocaine residue in the passenger compartment and cocaine and fentanyl in Allen's bag. The circumstances of the possession were inconsistent with personal use. The police subsequently executed a search warrant that resulted in the discovery of several knotted bags of cocaine in Allen's pockets and cell phones in Allen's home showing that he was arranging drug sales. Allen did not object to the Commonwealth's recitation of the evidence.

The court accepted Allen's guilty pleas, finding that they were knowingly and intelligently made with a full understanding of the consequences. The court convicted Allen of the two counts of possessing drugs with intent to distribute, and the Commonwealth dismissed the four remaining charges.

At the subsequent sentencing hearing, Allen asked the court, in light of his acceptance of responsibility, to impose a sentence of time served. The Commonwealth countered that, considering the quantity of drugs seized from Allen and his prior convictions, the court should

sentence him to 20 years for each count and impose an active sentence of 6 years and 10 months' incarceration. Allen did not object that this recommendation exceeded the Commonwealth's promise to ask for no more than five years and seven months' incarceration, which was the midpoint of the guidelines. The court agreed with the Commonwealth's recommendation and sentenced Allen to 40 years in prison, with 33 years and 2 months suspended, for a total active sentence of 6 years and 10 months. The court acknowledged that this sentence was on "the high end of the guidelines" but explained that it was appropriate given the quantity of drugs that Allen was selling and because, when he was out on bond, he sold drugs again.

At no point, either before or after sentencing, did Allen submit a motion to the court to withdraw his guilty pleas.

ANALYSIS

I. Guilty Pleas

"Waivers of constitutional rights not only must be voluntary but must be knowing, intelligent acts done with sufficient awareness of the relevant circumstances and likely consequences." *Brady v. United States*, 397 U.S. 742, 748 (1970). For a guilty plea to be valid, a defendant must have entered the plea "freely, intelligently, and knowingly." *Hill v. Commonwealth*, 47 Va. App. 667, 674 (2006). Furthermore, "to withstand scrutiny on appeal, the record must contain an 'affirmative showing' that the guilty plea was entered voluntarily and intelligently." *Id.* (citing *Boykin v. Alabama*, 395 U.S. 238, 243 (1969)); *see generally Anderson v. Warden of Powhatan Corr. Ctr.*, 222 Va. 511, 516 (1981) (holding that where, during the trial court's questioning, "the accused positively and without equivocation . . . professed the voluntariness of his plea of guilty," the voluntariness of that plea was "considered conclusively established by the trial proceedings").

Allen contends his guilty pleas were unknowing and involuntary because he was not given notice of the elements of the offenses and he was not made aware of the collateral consequences of his pleas, including loss of voting and firearm rights and disqualification from certain public benefits and licenses. Allen concedes that he never moved to withdraw his guilty pleas but submits that he "did not become aware of his inadequate understanding of the charges and their elements" until after sentencing, "by which time he had no opportunity to object to the unknowing, unintelligent, and consequently involuntary nature" of his guilty pleas. Allen asserts that we should consider the issues to "attain the ends of justice" under Rule 5A:18.

Rule 5A:18 states that "[n]o ruling of the trial court . . . will be considered as a basis for reversal unless an objection was stated with reasonable certainty at the time of the ruling, except for good cause shown or to enable this Court to attain the ends of justice." "The main purpose of requiring timely specific objections is to afford the trial court an opportunity to rule intelligently on the issues presented, thus avoiding unnecessary appeals and reversals." *Weidman v. Babcock*, 241 Va. 40, 44 (1991).

Whether to apply the ends-of-justice exception involves two questions: "(1) whether there is error as contended by the appellant; and (2) whether the failure to apply the ends of justice provision would result in a grave injustice." *Commonwealth v. Bass*, 292 Va. 19, 27 (2016) (quoting *Gheorghiu v. Commonwealth*, 280 Va. 678, 689 (2010)). "The burden of establishing a manifest injustice is a heavy one, and it rests with the appellant." *Holt v. Commonwealth*, 66 Va. App. 199, 210 (2016) (en banc) (quoting *Brittle v. Commonwealth*, 54 Va. App. 505, 514 (2009)). "In order to avail oneself of the exception, a defendant must affirmatively show that a miscarriage of justice has occurred, not that a miscarriage might have occurred." *Melick v. Commonwealth*, 69 Va. App. 122, 146 (2018) (emphasis omitted) (quoting *Redman v. Commonwealth*, 25 Va. App. 215, 221 (1997)).

Allen has not shown there was error. *See Bass*, 292 Va. at 27. The record reflects that the court engaged in a comprehensive colloquy with Allen, and at no point did he express confusion, concern, or surprise. *See Booker v. Commonwealth*, 61 Va. App. 323, 337 (2012) (affirming denial of motion to withdraw guilty plea where defendant "presented no evidence of surprise, mistake, misconception as to the nature of the charge, or misunderstanding as to its effect"); *see also Hill*, 47 Va. App. at 675 (affirming validity of guilty plea where nothing in the record "suggest[ed] that Hill was unsure about entering his guilty plea"). Allen contends he was not given notice of the elements of the offenses, but during the colloquy he confirmed that he had sufficient time to speak with his attorney and discuss possible defenses and had reviewed evidence in the Commonwealth's file as well as the elements the Commonwealth would have to prove for a conviction. He confirmed that he understood the charges against him.

A court need not review each specific element of an offense to which the defendant is pleading guilty but must only ensure that the defendant understands the "nature of the charge and the consequences of the plea." Rule 3A:8(b)(1); *see Bowles v. Commonwealth*, No. 1355-22-1, slip op. at 7, 2023 Va. App. LEXIS 555, at *10 (Aug. 15, 2023) ("No authority requires that the trial court review each of the specific elements of the offenses for [a defendant's] guilty pleas to be valid . . . .")[3]; *see also Zigta v. Commonwealth*, 38 Va. App. 149, 154 (2002) ("A trial court is not required to discuss every nuance of the law regarding a defendant's plea in order to render a guilty plea voluntary and knowing."). Moreover, although a defendant must be made aware of all the direct consequences of his plea, there is no requirement that he be advised of collateral consequences. *Brown v. Commonwealth*, 297 Va. 295, 302 (2019). Direct consequences are those consequences that "have a definite, immediate[,] and largely automatic effect on the range

[3] "Unpublished opinions, although not binding, may be cited as 'informative' and 'considered for their persuasive value.'" *Osman v. Commonwealth*, 76 Va. App. 613, 653 n.23 (2023) (quoting *Otey v. Commonwealth*, 61 Va. App. 346, 350 n.3 (2012)); *see* Rule 5A:1(f).

of the defendant's punishment" as opposed collateral consequences, which are "uncertain or beyond the direct control of the court." *Id.* (emphasis omitted) (quoting *Meyer v. Branker*, 506 F.3d 358, 368 (4th Cir. 2007)).

Here, contrary to his assertion, the record establishes that Allen entered his pleas knowingly, voluntarily, and intelligently with a clear understanding of the nature of the charges and consequences of his guilty pleas. *See* Rule 3A:8(b)(1); *see also Anderson*, 222 Va. at 516; *Hill*, 47 Va. App. at 674-75 (rejecting challenge to the voluntariness of a guilty plea where defendant's statements during plea colloquy demonstrated that his plea "was made voluntarily, knowingly, and intelligently"). Accordingly, we find no error in the court's decision. For the same reasons, Allen has not established that a "grave injustice" would result if we do not apply the ends-of-justice exception in Rule 5A:18. *See Bass*, 292 Va. at 27 (quoting *Gheorghiu*, 280 Va. at 689). Significantly, on brief, Allen does not contest his guilt and fails to proffer any defenses that he purportedly could have made at trial. Because Rule 5A:18 bars consideration of this assignment of error, we affirm the court's decision to accept Allen's guilty pleas.

II. Sentencing

We review a circuit court's sentencing decision for an abuse of discretion. *Cellucci v. Commonwealth*, 77 Va. App. 36, 45-46 (2023) (en banc). "Only when reasonable jurists could not differ can we say an abuse of discretion has occurred." *Id.* at 46 (quoting *Commonwealth v. Swann*, 290 Va. 194, 197 (2015)). A court abuses its discretion "by failing to consider a significant relevant factor, giving significant weight to an irrelevant or improper factor, committing a clear error of judgment, or making a mistake of law." *Id.*; *see also Lawlor v. Commonwealth*, 285 Va. 187, 213 (2013).

It is well-established that "[i]f a sentence imposed is within the statutory limits fixed by the legislature, the assumption is that the sentence will not be disturbed on appeal." *Cellucci*, 77

Va. App. at 48 (alteration in original) (quoting *Bassett v. Commonwealth*, 13 Va. App. 580, 582 (1992)). Moreover, "[b]arring clear evidence to the contrary, this Court will not presume that a trial court purposefully ignored mitigating factors in blind pursuit of a harsh sentence." *Bassett*, 13 Va. App. at 584.

Here, the court did not abuse its discretion when it imposed an active sentence of six years and ten months' incarceration. Code § 18.2-248 provides that "any person who violates this section with respect to a controlled substance classified in Schedule I or II shall upon conviction be imprisoned for not less than five nor more than 40 years." Allen was sentenced to two 20-year sentences with a portion of each suspended. Accordingly, his sentence did not exceed the statutory maximum. *See Cellucci*, 77 Va. App. at 48-49.

Allen asserts that the court should have given him a lighter sentence because he showed remorse, completed drug treatment programs, and had experienced hardship and poverty as a child. But the fact that Allen would have preferred the court to have weighed the evidence differently in imposing a sentence is not a basis for disturbing the court's decision. *See Guest v. Commonwealth*, 78 Va. App. 187, 197 (2023) ("The requirement that a trial court consider mitigation evidence at sentencing is not a requirement that the trial court will find such evidence compelling when weighed against other evidence."); *see also Cellucci*, 77 Va. App. at 52 (recognizing that in making a sentencing determination "the trial court was not obligated to find that the evidence highlighted by the appellant actually mitigated his crime").

Considering the record before us, we cannot say the court abused its discretion in sentencing Allen to an active sentence of six years and ten months.

CONCLUSION

Accordingly, we affirm the court's judgment.

Affirmed.