

No. 49113-3-II

IN THE COURT OF APPEALS  
FOR THE STATE OF WASHINGTON  
DIVISION II

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STATE OF WASHINGTON,

Respondent,

v.

JAYLIN J. IRISH,

Appellant.

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ON APPEAL FROM THE  
SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR PIERCE COUNTY

The Honorable Kathryn J. Nelson, Judge

REPLY BRIEF OF APPELLANT

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**A. ARGUMENT IN REPLY**

In its response, the State argues that the court did not abuse its discretion by denying the appellant's motion to withdraw his guilty plea and that the record, including the verbatim report of the change of plea hearing and Statement on Plea of Guilty, support the court's ruling. Brief of Respondent (BR) at 9-21.

A brief restatement of the procedural stance of the case: appellant Jaylin Irish argues the trial court erred in not allowing him to withdraw his guilty pleas to first degree assault and first degree rendering criminal assistance.

Under CrR 4.2(f), a court must allow a guilty plea to be withdrawn whenever it appears withdrawal is necessary to correct a manifest injustice. This rule imposes a demanding standard on the defendant to demonstrate a manifest injustice, i.e., "an injustice that is obvious, directly observable, overt, not obscure." *State v. Saas*, 118 Wn.2d 37, 42, 820 P.2d 505 (1991) (quoting *State v. Taylor*, 83 Wn.2d 594, 596, 521 P.2d 699 (1974)). The Court in *Taylor* provided a list of four nonexclusive instances of "manifest injustice":

- (1) denial of effective counsel, (2) plea ... not ratified by the defendant or one authorized [by him] to do so, (3) plea was involuntary, (4) plea agreement was not kept by the prosecution.

A strong presumption that a plea is voluntary exists when a defendant completes a plea agreement and admits to reading, understanding, and signing that plea agreement. *State v. Smith*, 134 Wn.2d 849, 852, 953 P.2d 810 (1998). Notwithstanding this presumption of validity, CrR 4.2(f) provides that the court shall allow a defendant to withdraw the plea of guilty whenever it appears that the withdrawal is necessary to correct a manifest injustice. A guilty plea is involuntary and invalid if it is obtained by mental coercion overbearing the will of the defendant. The voluntariness of a determined by considering the relevant circumstances surrounding it. *Brady v. United States*, 397 U.S. 742, 90 S. Ct. 1463, 25 L. Ed. 2d 747 (1970).

Mr. Irish contends that his plea was coerced due to his fear that his trial counsel was unprepared for trial. Coercion may render a guilty plea involuntary. *State v. Frederick*, 100 Wn.2d 550, 556, 674 P.2d 136 (1983), overruled on other grounds by *Thompson v. Dep't of Licensing*, 138 Wn.2d 783, 794, 982 P.2d 601 (1999). The State in its response argues strongly that Mr. Irish clearly gave all indications that it was his intention to plead guilty and that his bid to withdraw his plea is “nothing more than a classic case of buyer’s remorse” BR at 21. Mr. Irish’s argument is more than the “thin gruel” that it appears to be at first blush.

Denial of improper influence in open court does not prevent him from claiming coercion on review. *State v. Osborne*, 102 Wn.2d 87, 97, 684 P.2d 683 (1984). During the motion hearing, Mr. Irish explained the reason he felt pressured to plead guilty:

Q: Okay. So can you describe for us a little more in more detail?

A: Just basically, I just felt like [my attorney] was unprepared for trial, like I – I didn't feel like, if we went to trial, I didn't feel like he was going to do his best to represent me in that trial because he wasn't talking about anything about trial.

Q: So the pressure comes more from the fact that you believe that he was not prepared at all throughout the case?

A: Yes.

Q: And that you had no other valid option?

A: Yes.

4RP at 144

Whether or not Mr. Irish was correct in his belief regarding the state of counsel's preparedness is not evident in the record, and in fact counsel asserts that he was ready to go to trial. 5RP at 173. Nevertheless, Mr. Irish's perception is that his counsel was unprepared and that the belief that his attorney was unprepared resulted in coercion to enter the guilty plea and giving up his right to trial. In essence, Mr. Irish believed that he was forced into the "Hobson's choice" of either pleading

guilty and going to prison for less time (thereby giving up his right to trial), or going to trial without sufficient preparation, being convicted, and going to prison for more time, and thereby giving up his right to effective assistance of counsel. The effect of his lack of confidence in counsel is amplified by his youth; Mr. Irish was 18 at the time he entered his plea, a fact that may be considered in a review of the totality of the record and surrounding circumstances of the plea. *State v. Williams*, 117 Wn. App. 390, 398, 71 P.3d. 686 (2003). Mr. Irish's lack of confidence in his counsel casts doubt on the voluntariness of his plea.

**B. CONCLUSION**

The trial court erred when it denied the defendant's motion to withdraw his guilty plea because he did not voluntarily enter it.

DATED: May 1, 2017.

Respectfully submitted,  
THE TILLER LAW FIRM



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CERTIFICATE OF SERVICE

The undersigned certifies that on May 1, 2017, that this Reply Brief of Appellant was sent by the JIS link to Mr. Derek Bryne, Clerk of the Court, Court of Appeals, Division II, 950 Broadway, Ste.300, Tacoma, WA 98402-4454, a copy was emailed to Britta Halverson, Pierce County Prosecutor and a copy was mailed by U.S. mail, postage prepaid, to the following:

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Mr. Jaylin Irish DOC# 369759 Coyote Ridge Corrections Center PO Box 769 Connell, WA 99326 <b><u>LEGAL MAIL/SPECIAL MAIL</u></b>	

This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Centralia, Washington on May 1, 2017.

THE TILLER LAW FIRM



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**TILLER LAW OFFICE**  
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