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APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

**SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-2071-21**

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

CHERYL VENTURINI,

Defendant-Appellant.

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Submitted May 30, 2023 – Decided June 19, 2023

Before Judges Whipple and Mawla.

On appeal from the Superior Court of New Jersey, Law Division, Bergen County, Municipal Appeal No. 21-19.

Law Offices of Nazario & Parente, LLC, attorneys for appellant (Thales A. Nazario, on the brief).

Mark Musella, Bergen County Prosecutor, attorney for respondent (K. Charles Deutsch, Assistant Prosecutor, of counsel and on the brief).

PER CURIAM

Defendant Cheryl Venturini appeals from a March 14, 2022 Law Division order denying her appeal from River Edge Municipal Court's denial of her motion to withdraw a guilty plea. We affirm.

Ten years prior, on March 15, 2011, the River Edge Police Department issued defendant a summons for driving while intoxicated (DWI), N.J.S.A. 39:4-50; refusal to take a breathalyzer test, N.J.S.A. 39:4-50.4a; and reckless driving, N.J.S.A. 39:4-96. On April 5, 2011, defendant appeared in River Edge Municipal Court to enter a guilty plea. Under the terms of the plea agreement, defendant pled guilty to the DWI and refusal charges and, in return, the State moved to dismiss the reckless driving charge.

Prior to accepting defendant's plea to DWI, the municipal court judge informed defendant she faced certain additional penalties because she had a prior DWI conviction and warned her there would be further penalties if she were convicted of DWI for a third time. Additionally, the municipal court judge reviewed the penalties defendant faced for the refusal charge. She acknowledged she understood each warning.

Defendant then gave the factual basis for the plea. She admitted that on March 4, 2011, while on New Bridge Road, she was intoxicated and "swerving over the double yellow lines . . . ." She stated she had consumed four martinis,

"a couple of mozzarella sticks," and fried pickles prior to driving. An officer pulled her over and administered field sobriety tests. When the officer asked her to take a breathalyzer test and explained the penalties for refusing to do so, defendant declined to take the test.

After informing defendant she was forgoing her right to a trial on the charged offenses, the court confirmed she was pleading voluntarily and that no one had coerced her. Regarding her right to appeal, the municipal court judge asked: "Do you understand that even if I had found you guilty, that you . . . would have had the right to appeal from my decision and that it's possible that a judge at a higher level in the court system would have disagreed with me and overturned your conviction?" Defendant replied she understood. The court accepted the plea and sentenced defendant.

On July 13, 2021, defendant moved to withdraw her 2011 plea to DWI and refusal. A new municipal court judge reasoned that (1) the right to appeal was likely advised during the prior judge's opening statement to all present in the court (a transcript of which defense counsel had not provided); (2) the prior municipal court judge advised defendant she would have the right to appeal a conviction at trial; (3) defendant had previous motor vehicle convictions and was likely aware of her right to appeal; and (4) the factual basis was adequate.

On July 28, 2021, defendant appealed the denial of her motion to the Law Division. On March 14, 2022, Judge Christopher R. Kazlau, utilizing a de novo standard of review, rejected defendant's arguments and denied her motion to withdraw her guilty plea in a well-reasoned fifteen-page opinion.

On appeal, defendant argues the following:

POINT ONE

THE [TRIAL] COURT . . . WAS CLEARLY  
ERRONEOUS AS APPELLANT'S PLEA SHOULD  
HAVE BEEN VACATED.

. . . .

B. Appellant Was Never Advised of The Rights  
Required To Be Forfeited To Plead Guilty.

C. Appellant Provided An Inadequate Factual  
Basis For Her Plea.

Defendant argues she was never fully apprised of her rights before entering a guilty plea and she did not provide an adequate factual basis. We use an abuse of discretion standard when reviewing the grant or denial of a motion to withdraw a plea. State v. Williams, 458 N.J. Super. 274, 280 (App. Div. 2019) (citing State v. Tate, 220 N.J. 393, 404 (2015)).

Defendant's arguments are without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(2). We affirm defendant's DWI conviction

for the reasons stated in Judge Kazlau's thorough and comprehensive written opinion. We add the following brief comments.

Defendant argues no advisement of rights or penalties was ever placed on the record prior to her entering a guilty plea. She contends neither the original municipal court judge nor counsel ever explained to her: (1) she would be presumed innocent at trial; (2) the State would be required to prove her guilty beyond a reasonable doubt; (3) or that her attorney would have an opportunity to confront the evidence and cross-examine any witnesses.

The record shows the municipal court judge addressed all the penalties defendant faced as a second-time DWI offender, the penalties she would face if she were convicted of a third DWI, and the penalties for refusal. Defendant acknowledged she understood these penalties. Thus, the court satisfied the requirements under Rule 7:6-2(a)(1).

Defendant further argues neither the court nor counsel inquired as to whether counsel had reviewed relevant discovery with defendant and answered any questions she may have had regarding that discovery. She contends the court was required to advise her of her right to appeal and the right to file post-conviction-relief within the applicable time limitations. She additionally submits she was never advised of her right to appeal in the municipal court.

Defendant concludes, because the court failed to advise or discuss the right to appeal in either its findings or sentence, she is entitled to relief.


As Judge Kazlau cogently expressed, the remedy for such errors is for defendant to file a notice of appeal as within time. See State v. Johnson, 396 N.J. Super. 133, 143 (App. Div. 2007). The remedy is not to withdraw a guilty plea.

Defendant's argument that her plea should be withdrawn under State v. Slater fails. 198 N.J. 145, 157-58 (2009). Slater sets forth four factors to consider in whether to withdraw a plea: (1) whether there is a colorable claim of innocence; (2) the nature and strength of defendant's reasons for withdrawal; (3) whether the plea was entered as part of a plea bargain; and (4) whether the withdrawal of the plea would result in unfair prejudice to the State or unfair advantage to the defendant. Ibid.

Defendant has not asserted a claim of innocence and, concluding she was properly apprised of her rights, we find there is nothing justifying withdrawal. Further, her plea was entered as part of a plea bargain over ten years ago, which also weighs against withdrawal. Id. at 160-61.

Affirmed.

I hereby certify that the foregoing  
is a true copy of the original on  
file in my office.

  
CLERK OF THE APPELLATE DIVISION