

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

STATE OF OHIO,	:	APPEAL NO. C-150248
	:	TRIAL NO. B-1405634
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
DAVID TRAMBER,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. See S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

In one assignment of error, defendant-appellant David Tramber claims that the trial court improperly denied his motion to withdraw his guilty plea. We affirm.

Tramber pleaded guilty to two counts of theft and two counts of burglary. He was sentenced to one year in prison for each theft count and four years in prison for each burglary count. The trial court ordered Tramber to serve the sentences consecutively, for a total of ten years in prison. After the sentencing, Tramber filed a motion to withdraw his guilty plea. He claimed that the conduct in which he had actually engaged did not constitute burglary. The trial court denied his motion.

On a postsentence motion to withdraw a guilty plea, the defendant bears the burden of demonstrating that the withdrawal of his plea was necessary to correct a “manifest injustice.” Crim.R. 32.1; *State v. Smith*, 49 Ohio St.2d 261, 361 N.E.2d 1324 (1977), paragraph one of the syllabus. The decision of whether the defendant has sustained this burden is committed to the sound discretion of the trial court. *Smith* at paragraph two of the syllabus.

A counseled, knowing, voluntary, and intelligent guilty plea constitutes a complete admission of the facts underlying the charged offense and thus effectively

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removes from the case any issue concerning the defendant's factual guilt of the offense. Crim.R. 11(B)(1); *State v. Wilson*, 58 Ohio St.2d 52, 388 N.E.2d 745 (1979), paragraph one of the syllabus. Therefore, Tramber's challenge is limited to whether the plea was knowing, voluntary, and intelligent. *See State v. Mynatt*, 1st Dist. Hamilton Nos. C-100298 and C-100319, 2011-Ohio-1358, ¶ 7-10. And he has not challenged the voluntariness of the plea.

It was not an abuse of discretion for the trial court to find that the withdrawal of his plea was not necessary to correct a "manifest injustice." The assignment of error is overruled. The judgment of the trial court is affirmed.

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.

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

To the clerk:

Enter upon the journal of the court on December 2, 2015
per order of the court _____.

Presiding Judge