Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2009-066

JULY TERM, 2009

State of Vermont	}	APPEALED FROM:
	}	
	}	
v.	}	District Court of Vermont,
	}	Unit No. 3, Caledonia Circuit
	}	
Michael Naples	}	DOCKET NO. 421-6-83 CaCr
		Trial Judge: Howard E. Van Benthuysen

In the above-entitled cause, the Clerk will enter:

Defendant appeals the district court's order denying his motion to withdraw a guilty plea and vacate a twenty-five-year-old conviction. We affirm.

In June 1983, defendant was stopped for speeding and eventually arrested for driving while intoxicated (DWI). Defendant was operating a motor vehicle registered in Florida and provided a Florida operator's license to the officer. He also informed the officer that he was leaving for Florida later that day. Because defendant had no ties to the community, he was taken into custody, charged by information, and arraigned that same day. Before the arraignment, defendant met with a public defender, who informed him that he would likely be held on bail if he did not plead guilty. Following a colloquy with the court pursuant to Vermont Rule of Criminal Procedure 11, defendant pled guilty, and he was fined $125.

In December 2008, more than twenty-five years after he pled guilty to DWI, defendant filed a motion to withdraw the plea and vacate the conviction. He claimed that the plea was not voluntary because he believed he would remain in jail if he did not plead guilty and he did not understand the collateral consequences of a guilty plea, namely that the conviction could be used for enhancement purposes should he be convicted of DWI in the future. On a motion-reaction form, the district court denied the motion, stating that the record revealed substantial compliance with Rule 11 sufficient to survive an attack on the judgment, collateral or otherwise.

On appeal, defendant argues that the court abused its discretion by denying his motion, and in any case should have held a hearing before deciding the motion. We find no merit to these arguments. When a motion to withdraw a guilty plea is made after sentence, as it was here, "the court may set aside the judgment of conviction and permit withdrawal of the plea only to correct manifest injustice." V.R.Cr.P. 32(d). This is a more rigorous standard than that applied before a sentence is imposed or deferred and is essentially the same as that applied to collateral attacks in petitions for post-conviction relief. State v. Cahill, No. 2001-371, slip op. at 1 (Vt. Feb. 2002) (unreported mem.). The decision to grant or deny a motion to withdraw a guilty plea made after sentence is within the sound discretion of the trial court and will not be disturbed on appeal unless an abuse of discretion is shown.

In this case, the district court acted well within its discretion in denying defendant's motion. We have held that neither defense counsel nor the trial court is obligated to explain to defendants the potential collateral consequences of a guilty plea, and that the failure to do so does not make a plea involuntary. State v. Pilette, 160 Vt. 509, 511-12 (1993). As we noted in Pilette, "a defendant can expect that subsequent, identical criminal violations will lead to more severe punishment, whether or not a statute requires enhancement. The court does not have to explain the consequences of future offenses or the effect of a plea of guilty on those consequences." Id. at 512. Nor was defendant's plea made involuntary because he faced the choice of pleading guilty and paying the fine or standing trial and risking remaining in jail. Defendants normally have to make such decisions; his predicament left him with unpleasant and difficult options, but did not make his choice to plead guilty involuntary.

Finally, there was no need for the district court to hold a hearing. Defendant outlined the facts that he believed entitled him to withdraw his plea, and the court, accepting those facts as true, determined that they were insufficient to demonstrate manifest injustice. The law and the record support this judgment. See State v. Senecal, 145 Vt. 554, 560 (1985) ("A hearing on a motion is not required unless the motion papers 'indicate a real dispute for one or more relevant facts.' " (Quoting Reporter's Notes -- 1982 Amendment, V.R.Cr.P. 47(b)(2).)).

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

John A. Dooley, Associate Justice

Marilyn S. Skoglund, Associate Justice