

**STATE OF LOUISIANA  
COURT OF APPEAL, SECOND CIRCUIT  
430 Fannin Street  
Shreveport, LA 71101  
(318) 227-3700**

No. 55,384-KW

STATE OF LOUISIANA

VERSUS

WUNDRIA VON BYRD

FILED: 06/14/23

RECEIVED: EMAIL 06/14/23

On application of State of Louisiana for POST-CONVICTION RELIEF in No. 13-F1722 on the docket of the Fourth Judicial District, Parish of OUACHITA, Judge Larry Donell Jefferson.

Robert Stephen Tew  
Robert Nicolas Anderson

Counsel for:  
State of Louisiana

MANASSEH, GILL, KNIPE & BELANGER  
Andre Robert Belanger

Counsel for:  
Wundria Von Byrd

Before PITMAN, COX, and HUNTER, JJ.

**WRIT GRANTED AND MADE PEREMPTORY; REVERSED.**

The applicant, the State of Louisiana, seeks supervisory review of the trial court's May 25, 2023, ruling granting Wundria Byrd's motion to withdraw her January 23, 2017, guilty plea, made pursuant to a plea agreement with an agreed sentence.

Review of the record shows that the terms of the plea agreement were read into the record at the guilty plea hearing and recited in the guilty plea waiver of rights form that Byrd signed. Byrd was advised that by pleading guilty with an agreed sentence, she waived her rights to seek review of her conviction and sentence. The trial court made a misrepresentation that, despite Byrd's waiver of her right to appeal her agreed sentence, she could still petition the trial court to consider a lower sentence. After Byrd was sentenced in conformity with her agreed sentence, she filed a motion to reconsider sentence that was ultimately denied because a defendant cannot appeal or seek review of a sentence imposed in conformity with a plea agreement which was set forth in the record at the time of the plea. La. C. Cr. P. art. 881.2(A)(2).

Byrd contends that she is entitled to withdraw her guilty plea because the court’s misrepresentation became a material term in her plea agreement and the guilty plea colloquy; the reconsideration term was unenforceable; and she relied upon the trial court’s misrepresentation in her decision to plead guilty.

The terms of the plea agreement were clear and unambiguous, and there is no indication in the record that the State agreed that Byrd would be allowed to seek reconsideration of her agreed sentence. Byrd received everything that she bargained for, at enormous benefit to her. Her charge of attempted second degree murder charge was reduced to manslaughter and her charge of armed robbery was dismissed; her potential sentencing exposure was greatly reduced; and the trial court suspended all but 6.5 years of her 20-year sentence, after she pepper-sprayed a woman in the face and stabbed her 17 times with a knife. Byrd shows no prejudice by the trial court’s misrepresentation because was no breach of her plea agreement, despite Byrd’s failure to appear for sentencing as she promised in the agreement, which required her subsequent arrest on a bench warrant. The trial court’s misrepresentation did not deprive Byrd of any right to which she was entitled, because she waived the right to review in exchange for the benefits of her plea agreement.

The trial court’s deviation from La. C. Cr. P. art. 556.1, by granting Byrd a right that she chose to waive, did not cause the trial court’s misstatement to become a part of the plea agreement, and Byrd fails to show that she relied upon the trial court’s misrepresentation in her decision to plead guilty. Therefore, she has not shown that she is entitled to withdraw her guilty plea based on that misrepresentation.

Under the facts of this case, we find that the trial court erred in granting the motion. Accordingly, the writ is hereby granted and made peremptory. The trial court’s ruling is reversed, and Byrd’s guilty plea and sentence are hereby reinstated.

Shreveport, Louisiana, this 1 day of August, 2023.

JSC JGO

MLH HUNTER, J., would deny. The trial court may grant a motion to withdraw a guilty plea any time before sentencing; nevertheless, a guilty plea may be withdrawn even after sentencing when the trial court finds that the Boykin colloquy was inadequate; circumstances prevented the defendant from knowingly and voluntarily entering a guilty plea; or when the trial court determined that the facts surrounding the guilty plea rendered it “constitutionally deficient.” La. C. Cr. P. art. 559(A); *State v. Galliano*, 396 So. 2d 1288 (La. 1981). The discretion to allow the withdrawal of a guilty plea under La. C. Cr. P. art. 559(A) lies with the trial court, and such discretion cannot be disturbed absent an abuse of the trial

court's discretion. *State v. Branch*, 54,951, (La. App. 2 Cir. 4/5/23), 361 So. 3d 80. I would deny the writ application, thereby vesting the power of correction with the trial court.

FILED: August 1, 2023

Shandra Jaylor  
DEPUTY CLERK