

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
SAMEH SAMIR GABRA	:	
	:	
Appellant	:	No. 1745 MDA 2024

Appeal from the Judgment of Sentence Entered September 18, 2024
 In the Court of Common Pleas of Franklin County
 Criminal Division at No(s): CP-28-CR-0000283-2024

BEFORE: PANELLA, P.J.E., KUNSELMAN, J., and NICHOLS, J.

OPINION BY PANELLA, P.J.E.:

FILED MAY 07, 2025

Sameh Samir Gabra appeals from the judgment of sentence entered on September 18, 2024, after he pled guilty to recklessly endangering another person.¹ Gabra's counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), and *Commonwealth v. Santiago*, 978 A.2d 349 (Pa. 2009) ("*Anders* brief"), and a petition to withdraw as counsel. We grant counsel's petition to withdraw and affirm the judgment of sentence.

The trial court set forth the relevant factual and procedural history:

[Gabra] was charged by [criminal] information with one count each of [f]irearms [n]ot to be [c]arried [w]ithout a [l]icense, [r]ecklessly [e]ndangering [a]nother [p]erson and [d]isorderly [c]onduct,^[2] based on allegations that on December 25, 2023, he fired a 9 mm Baretta handgun in a populated residential neighborhood in the Borough of Chambersburg, placing the reporting party in fear of serious bodily injury, creating public

¹ 18 Pa.C.S.A. § 2705.

² 18 Pa.C.S.A. §§ 6106(a)(1), 2705, and 5503(a)(4), respectively.

alarm, and then left the area in his vehicle, taking the firearm with him.

After several continuances of his mandatory arraignment date, on September 1[8], 2024, [Gabra] entered a negotiated guilty plea to [r]ecklessly [e]ndangering [a]nother [p]erson. The agreed-to sentence imposed that same day called for 24 months' probation, a fine of \$150.00, compliance with standard supervision rules, a firearms prohibition and other fees and costs allowed by statute.

On September 30, 2024, [Gabra] filed a [m]otion to [w]ithdraw [g]uilty [p]lea, wherein he argued that he was prejudiced by his guilty plea on the order of manifest injustice because he entered into the plea involuntarily, unknowingly, or unintelligently. [Gabra] contended that he was essentially innocent of the charges, but was pressured by his family and a "cultural obligation" into taking the plea to protect a family member who was the genuinely guilty party and who would be facing deportation should they have come in contact with law enforcement. Therefore, [Gabra] reasoned, it would be unjust for him to serve his sentence and suffer the consequences of his family member's actions. [The trial court] set this matter for hearing on October 28, 2024, and after hearing the testimony of [Gabra] and argument by the parties, [the trial court] denied the motion, placing [its] reasons for the denial on the record.

[Gabra] testified that his sister had come to court and had been speaking for him, ostensibly providing his attorney and the prosecutor with false information, and blaming him for discharging the firearm when he was actually innocent. [Gabra] also reasserted that he was pressured into taking the blame for his cousin who could have been deported to Egypt had he been involved. [Gabra] elaborated that [] a cultural obligation compelled him to take the responsibility for firing the gun to protect his cousin.

[The trial court] did not find [Gabra] credible in his testimony and declined to find that it would be a manifest injustice[, therefore] prohibit[ing] him from withdrawing his guilty plea. After placing [its] reasoning on the record, [the trial court] dictated an [o]rder denying [Gabra's] motion.

[Gabra] filed a [n]otice of [a]ppeal on November 27, 2024. By [o]rder dated December 3, 2024, [the trial court] directed [Gabra] to file a concise statement of matters complained of on appeal pursuant to Pa.R.A.P. 1925(b) within 21 days. [Gabra] timely complied with that directive[.]

Trial Court Opinion, 1/6/25, at 1-3 (footnotes omitted).

Because counsel filed an **Anders** brief, we must first review whether counsel complied with **Anders** and its progeny. We have held:

To withdraw pursuant to **Anders**, counsel must:

1) petition the court for leave to withdraw stating that, after making a conscientious examination of the record, counsel has determined that the appeal would be frivolous; 2) furnish a copy of the **Anders** brief to the appellant; and 3) advise the appellant that he or she has the right to retain private counsel or raise additional arguments that the appellant deems worthy of the court's attention.

With respect to the third requirement of **Anders**, that counsel inform the appellant of his or her rights in light of counsel's withdrawal, this Court has held that counsel must attach to their petition to withdraw a copy of the letter sent to their client advising him or her of their rights.

[Further, a]n **Anders** brief must comply with the following requirements:

(1) provide a summary of the procedural history and facts, with citations to the record; (2) refer to anything in the record that counsel believes arguably supports the appeal; (3) set forth counsel's conclusion that the appeal is frivolous; and (4) state counsel's reasons for concluding that the appeal is frivolous. Counsel should articulate the relevant facts of record, controlling case law, and/or statutes on point that have led to the conclusion that the appeal is frivolous.

If counsel's petition and brief satisfy **Anders**, we will then undertake our own review of the appeal to determine if it is wholly frivolous.

Commonwealth v. Blango, 327 A.3d 670, 675 (Pa. Super. 2024) (brackets, internal quotation marks, and citations omitted).

Counsel has substantially complied with the dictates of **Anders** and its progeny. Counsel filed a petition to withdraw as counsel, noting she made a conscientious examination of the record and determined the appeal is frivolous. **See** Petition to Withdraw as Counsel, 2/18/25 (unpaginated). Attached to the petition is a letter sent to Gabra that indicates a copy of the **Anders** brief is enclosed. **See id.** at Exhibit A. Counsel advised Gabra that he has "several options" including retaining an attorney or representing himself to raise additional issues with this Court. **Id.** Gabra has not filed a response with this Court.

Counsel's **Anders** brief provides a summary of the procedural and factual history. **See Anders** Brief, at 10-12. Counsel referred to facts that arguably support the appeal. **See id.** at 15. Finally, counsel states the appeal is frivolous and explains her reasoning with facts of record and relevant case law. **See id.** at 15-18. Since counsel complied with **Anders** and its progeny, we will conduct an independent review of the record to determine if the appeal is wholly frivolous.

Counsel raised one claim in her **Anders** brief:

Did the trial court abuse its discretion when it denied [Gabra's] post-sentence [m]otion to [w]ithdraw [g]uilty [p]lea, which

[Gabra] filed on the assertion that his [g]uilty [p]lea was not voluntarily entered?

Anders brief, at 9.

We review the denial of a post-sentence motion to withdraw a guilty plea for an abuse of discretion. **See Commonwealth v. Kehr**, 180 A.3d 754, 757 (Pa. Super. 2018). “Discretion is abused when the course pursued represents not merely an error of judgment, but where the judgment is manifestly unreasonable or where the law is not applied or where the record shows that the action is a result of partiality, prejudice, bias or ill will.” **Id.** (citation omitted).

A defendant must demonstrate that manifest injustice would result if the court were to deny his post-sentence motion to withdraw a guilty plea. Manifest injustice may be established if the plea was not tendered knowingly, intelligently, and voluntarily. In determining whether a plea is valid, the court must examine the totality of the circumstances surrounding the plea.

Id. at 756-57 (citation omitted).

Once a defendant has entered a plea of guilty, it is presumed that he was aware of what he was doing, and the burden of proving involuntariness is upon him. Therefore, where the record clearly demonstrates that a guilty plea colloquy was conducted, during which it became evident that the defendant understood the nature of the charges against him, the voluntariness of the plea is established. A defendant is bound by the statements he makes during his plea colloquy, and he may not assert grounds for withdrawing the plea that contradict statements made when he pled.

Commonwealth v. Stork, 737 A.2d 789, 790-91 (Pa. Super. 1999) (citations, brackets, and internal quotation marks omitted).

On October 28, 2024, the trial court held a hearing on Gabra's motion to withdraw his guilty plea. Gabra testified that he pled guilty due to pressure from his family to take the fall for his cousin who he alleged committed the crime. **See** N.T. Hearing, 10/28/24, at 8, 20, 21. Gabra asserted he was innocent, but between his family pressure and being rushed into court, he decided to plead guilty. **See id.** at 10-11, 14, 17. At the end of the hearing, the trial court found Gabra's testimony incredible, he did not meet the standard of manifest injustice, and denied the motion to withdraw his plea. **See id.** at 24-25.

The trial court's findings are supported by the record. At the guilty plea hearing, Gabra testified no one threatened him to plead guilty. **See** N.T. Guilty Plea, 9/18/24, at 5. He further provided the facts to which he pled guilty: "I shot a gun in the air[.]" **Id.** at 6. Gabra filled out a written guilty plea colloquy prior to the guilty plea hearing.³ **See id.** at 3-4 (identifying written colloquy and confirming Gabra answered each question and signed it); Guilty Plea Colloquy, 9/18/24, at 2-5. Within that written colloquy, Gabra confirmed he understood he had a right to trial by jury or trial by judge, his presumption of innocence, his right to testify on his own behalf, and that he is waiving those

³ We have held that written colloquies may supplement oral colloquies and become part of the totality of the circumstances to be considered in determining whether a guilty plea was knowingly, voluntarily, and intelligently entered. **See Commonwealth v. Bedell**, 954 A.2d 1209, 1212-13 (Pa. Super 2008).

rights by pleading guilty. **See** Guilty Plea Colloquy, 9/18/24, at 2-3. He further indicated that he had an “adequate opportunity” to discuss his case with his attorney, that his attorney did what he asked, and that he is satisfied with her representation. **Id.** at 3-4. Finally, he answered “yes” to the question “[a]re you satisfied that your guilty plea is voluntary and is in your best interest?” **Id.** at 4.

As the only evidence of Gabra’s allegation that his plea was involuntarily entered is in contradiction to the statements he made during his guilty plea colloquy, counsel correctly determined this claim is frivolous. **See Stork**, 737 A.2d at 790-91 (“A defendant is bound by the statements he makes during his plea colloquy, and he may not assert grounds for withdrawing the plea that contradict statements made when he pled.”) (citation omitted).

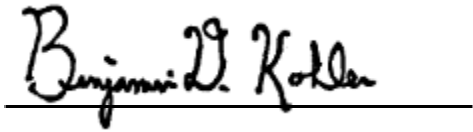
After our own independent review, we conclude there are no non-frivolous issues in the certified record. We agree with counsel that the appeal is wholly frivolous and grant her request to withdraw.

Petition to withdraw granted. Judgment of sentence affirmed.

Judge Kunselman joins the opinion.

Judge Nichols did not participate in the consideration or decision of this case.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 05/07/2025