

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

STATE OF OHIO,	:	APPEAL NO. C-140760
	:	TRIAL NO. B-1304393
Respondent-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
DANIEL LITTLEPAGE,	:	
	:	
Petitioner-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.

Petitioner-appellant Daniel Littlepage appeals from the Hamilton County Common Pleas Court’s judgment denying his postconviction petition. We affirm the court’s judgment.

Littlepage was convicted in January 2014 upon his guilty plea to aggravated murder with a gun specification, in connection with the shooting death of his brother. He unsuccessfully challenged his conviction in his direct appeal to this court and in a petition under R.C. 2953.21 for postconviction relief, filed with the common pleas court in August 2014. See *State v. Littlepage*, 1st Dist. Hamilton No. C-140574 (Aug. 26, 2015).

In this appeal, Littlepage presents three assignments of error that, read together, challenge the denial of his postconviction petition without a hearing. We find no merit to this challenge.

In his petition, Littlepage asserted that he is actually innocent of his brother's murder, and that at the time of his confession and plea, he was operating under a "diminished mental capacity" due to his ingestion of, and then withdrawal from, "mental health medication." He sought relief from his conviction on the following grounds: ineffective assistance of trial counsel in investigating and preparing his defense to the murder charge and in counseling his plea; "bias" and "prejudice" on the part of the trial court in accepting his plea, when he was operating "under diminished capacity" and precluded from claiming that he was actually innocent; and prosecutorial misconduct in failing to adequately investigate his claim of innocence and uncover and disclose exculpatory evidence and in coercing his guilty plea by intimidating him and otherwise taking advantage of his "diminished capacity." He supported his petition with outside evidence in the form of his own affidavit, in which he alleged that he had seen a third brother kill the victim, that he had attempted suicide after the murder was discovered because he had "had enough of everything," that the drug that he had used in his suicide attempt had caused him to record his confession to the murder, and that his trial counsel had disregarded his request to gather evidence, including photographs that, he insisted, would have led to the recovery of the murder weapon. He also submitted a hand-drawn diagram and notated photographs of the crime scene and surrounding area, literature concerning the drug used in his suicide attempt, and documents to show his good character and accomplishments.

A knowing, voluntary, and intelligent guilty plea waives any error not related to the entry of the plea. *State v. Ketterer*, 111 Ohio St.3d 70, 2006-Ohio-5283, 855 N.E.2d 48, ¶ 104; *State v. Spates*, 64 Ohio St.3d 269, 595 N.E.2d 351 (1992), paragraph two of the syllabus; *State v. Morgan*, 181 Ohio App.3d 747, 2009-Ohio-1370, 910 N.E.2d 1075, ¶ 25 (1st Dist.). In our decision in Littlepage's direct appeal, we held that the trial court

had fully complied with Crim.R. 11(C) in accepting his guilty plea. *See Littlepage*, 1st Dist. Hamilton No. C-140574. Neither the record of the proceedings leading to Littlepage's conviction upon his plea nor the outside evidence offered in support of his postconviction claims demonstrate that his plea was the unknowing, involuntary, or unintelligent product of his trial counsel's ineffectiveness, the trial judge's predisposition against him, prosecutorial misconduct, or any medication that he was taking.

Thus, Littlepage, by his guilty plea, waived those challenges to his conviction that were unrelated to the entry of his plea. And with respect to his challenges to the knowing, voluntary, and intelligent nature of his plea, he failed to sustain his burden of submitting evidentiary material setting forth sufficient operative facts to demonstrate substantive grounds for relief. We, therefore, hold that the common pleas court properly denied Littlepage's postconviction petition without an evidentiary hearing. *See R.C. 2953.21(C) and (E); State v. Pankey*, 68 Ohio St.2d 58, 428 N.E.2d 413 (1981); *State v. Jackson*, 64 Ohio St.2d 107, 413 N.E.2d 819 (1980). Accordingly, we overrule the assignments of error and affirm the court's judgment.

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 4, 2015

per order of the court \_\_\_\_\_.

Presiding Judge