

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

STATE OF OHIO,	:	APPEAL NO. C-150613
Plaintiff-Appellee,	:	TRIAL NO. 15CRB-15427
vs.	:	<i>JUDGMENT ENTRY.</i>
CALLIE ROBINSON LEE	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant Callie Robinson Lee was charged with menacing. Pursuant to a plea agreement, the state amended the charge to disorderly conduct. Lee pleaded guilty. Following a Crim.R. 11 hearing, the trial court accepted Lee's plea. During mitigation, Lee's defense attorney stated that Lee appreciated the state's amendment to the charge because Lee did not want to hurt her job prospects by having a menacing conviction on her record. The trial court sentenced Lee to 30 days' incarceration, suspended, and imposed one year of community control. The court also ordered Lee to stay away from the prosecuting witness and his family.

Three weeks later, Lee moved to withdraw her guilty plea under Crim.R. 32.1. Lee contended that relations between her and her attorney had been strained at her plea hearing, that they were not communicating well, and that she had since spoken with another attorney who allegedly believed that Lee may have a defense to the original charge of menacing. Lee also stated that she had felt pressured into taking the plea. She claimed that the prosecuting witness was now willing to testify on her

behalf should she be allowed to go to trial on the original charge. Following a hearing, the trial court overruled Lee's motion. Lee's sentence was stayed pending appeal.

In her sole assignment of error, Lee now argues that the trial court abused its discretion in failing to grant her motion to withdraw her plea. This argument has no merit.

On a postsentence Crim.R. 32.1 motion to withdraw a guilty plea, the defendant bears the burden of demonstrating that the withdrawal of her 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. Whether the defendant has sustained this burden is committed to the sound discretion of the trial court and will not be disturbed on appeal unless the trial court abused its discretion. *Id.* at paragraph two of the syllabus.

Here, the record shows that Lee entered her plea knowingly and voluntarily with the assistance of counsel. The trial court afforded her a proper Crim.R. 11 hearing, and Lee was aware of the rights she was waiving by pleading guilty. Lee points to nothing during her plea hearing that demonstrates that her plea was coerced or that she had a viable defense to the charge of menacing. We therefore hold that the trial court did not abuse its discretion in overruling Lee's motion. *See State v. Simmons*, 1st Dist. Hamilton No. C-050817, 2006-Ohio-5760, ¶ 22-23.

Lee next raises an issue that she did not assert in the trial court. She argues that the trial court erred when it allowed the state to amend its complaint from menacing to disorderly conduct because the amendment changed the name and identity of the charge. Lee contends that this resulted in a due-process violation amounting to a "manifest injustice" under Crim.R. 32.1. Because this argument was not raised below, it has been forfeited absent plain error. *See* Crim.R. 52(B); *State v. Rogers*, 143 Ohio St.3d 385, 2015-Ohio-2459, 38 N.E.3d 860, ¶ 22-23; *State v.*

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*Underwood*, 124 Ohio St.3d 365, 2010-Ohio-1, 922 N.E.2d 923, ¶ 31. Here, we find no error, let alone plain error. Lee bargained for the amended charge. She did not want a menacing conviction on her record because she was searching for a job. Any error that may have occurred was invited error, and we find no “manifest injustice.” See *State v. Spurling*, 1st Dist. Hamilton No. C-060087, 2007-Ohio-858, ¶ 19.

Lee’s assignment of error is overruled.

The trial court’s judgment 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.

**FISCHER, P.J., DEWINE and STAUTBERG, JJ.**

To the clerk:

Enter upon the journal of the court on September 23, 2016  
per order of the court \_\_\_\_\_.

Presiding Judge