

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

KYLELAN MICHAEL DESVIGNES,

Defendant and Appellant.

B287456

(Los Angeles County  
Super. Ct. Nos. BA453394  
and BA454711)

APPEAL from a judgment of the Superior Court of  
Los Angeles County, Douglas W. Sortino, Judge. Affirmed.

Gary V. Crooks, under appointment by the Court of  
Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

---

## INTRODUCTION

Kylelan Michael Desvignes appeals from judgments of conviction by plea in two cases after the trial court denied his motion to withdraw his plea. We affirm.

## FACTUAL AND PROCEDURAL BACKGROUND

### A. *The People Charge Desvignes in LASC Case No. BA453394*

In September 2016 Desvignes approached a man who was sitting in a parked car and took his cell phone and other belongings at gunpoint. Desvignes also arranged to meet two women, one on December 5, 2016 and one on December 12, 2016, and on each occasion Desvignes took the woman's cell phone and other valuables, again at gunpoint.

On July 17, 2017 the People charged Desvignes with three counts of second degree robbery (Pen. Code, § 211) and alleged as to two of the robbery counts that he personally used a firearm to commit the robbery (Pen. Code, § 12022.53, subd. (b)).

### B. *The People Charge Desvignes in LASC Case No. BA454711*

On October 27, 2016 a neighbor approached Desvignes outside the neighbor's house. While the two men were talking, Desvignes blocked the neighbor's view of people jumping the fence and entering the neighbor's yard. The neighbor returned home to discover his house had been ransacked and several items were missing. The same day a security video camera recorded Desvignes entering the laundry room of a home and activating

the alarm system, which prompted Desvignes to flee. On July 17, 2017 the People charged Desvignes with two counts of first degree burglary. (Pen. Code, § 459.)

C. *Desvignes Enters Pleas*

On October 5, 2017 Desvignes entered pleas of no contest in case No. BA453394 to one count of second degree robbery with an admission of the firearm use allegation and in case No. BA454711 to one count of first degree burglary. The transcript of the plea hearing shows that Desvignes was advised of and waived his constitutional rights and that he was advised of and acknowledged he understood the consequences of his pleas. The transcript also shows the trial court asked Desvignes, “Do you understand the court will treat your two no contest pleas the same as guilty pleas for all purposes?” Desvignes answered, “Yes, Your Honor.” The court found Desvignes had knowingly, voluntarily, and intelligently waived his constitutional rights. The court entered Desvignes’s pleas.

The prosecutor advised the trial court that, during the plea negotiations, the People had made Desvignes two proposals: a prison sentence of five years in exchange for a plea to two of the charged serious or violent felonies or a prison sentence of seven years in exchange for a plea to one of the charged serious or violent felonies. The prosecutor stated the reasons for the offers were the unwillingness of two of the victims to cooperate with the prosecution and Desvignes’s relative youth and lack of a criminal record.<sup>1</sup> Desvignes chose the offer with the five-year sentence.

---

<sup>1</sup> Desvignes was born in 1997.

D. *The Trial Court Denies Desvignes's Request To  
Withdraw His Pleas and the Court Sentences Him*

At the outset of the November 3, 2017 sentencing hearing, counsel for Desvignes stated that Desvignes wanted the trial court to allow him to withdraw his pleas because he “didn’t understand what a no contest entailed.” Desvignes told the court he had felt pressured to enter his plea. The court set Desvignes’s request to withdraw his pleas for hearing on November 30, 2017, to allow Desvignes to prepare and file a written motion.

At the November 30, 2017 hearing the trial court observed Desvignes had not filed a written motion to withdraw his plea. Desvignes told the court he wanted to withdraw his pleas because he did not personally receive “every piece of discovery” the People had produced. After confirming this was the sole basis of Desvignes’s request to withdraw his plea, the court denied the request. The court also denied Desvignes’s request that the court sentence him to the People’s alternative offer of a seven-year prison term in exchange for a plea to one serious or violent felony.

In accordance with the plea agreement, the trial court sentenced Desvignes to a prison term of five years for robbery in case No. BA453394 and a concurrent prison term of four years for first degree burglary in case No. BA454711. On the People’s motion, the court dismissed the remaining charges and allegations, including the firearm use allegation, which Desvignes had admitted. The trial court denied Desvignes’s subsequent written motion to withdraw his plea, filed on January 3, 2018, as untimely.

E. *Desvignes Appeals*

On January 9, 2018 Desvignes filed a timely notice of appeal in which he checked the preprinted boxes indicating, “This appeal is based on the sentence or other matters occurring after the plea that do not affect the validity of the plea” and “This appeal challenges the validity of the plea or admission.” The trial court granted Desvignes’s request for a certificate of probable cause based on Desvignes’s claim the court improperly denied his request to withdraw his plea.

**DISCUSSION**

We appointed counsel to represent Desvignes in this appeal. After reviewing the record, counsel filed an opening brief raising no issues. On August 28, 2018 we advised Desvignes he had 30 days to submit a brief or letter raising any grounds of appeal, contentions, or arguments he wanted us to consider. We have not received a response.

We have examined the record and are satisfied that appellate counsel for Desvignes has complied with his responsibilities and there are no arguable issues. (See *Smith v. Robbins* (2000) 528 U.S. 259, 277-284 [120 S.Ct. 746, 145 L.Ed.2d 756]; *People v. Kelly* (2006) 40 Cal.4th 106, 118-119; *People v. Wende* (1979) 25 Cal.3d 436, 441-442.)

““Section 1018 provides that . . . ‘[o]n application of the defendant at any time before judgment . . . the court may, . . . for a good cause shown, permit the plea of guilty to be withdrawn and a plea of not guilty substituted.’ Good cause must be shown for such a withdrawal, based on clear and convincing evidence. [Citation.]” [Citations.] “To establish good cause, it must be

shown that defendant was operating under mistake, ignorance, or any other factor overcoming the exercise of his free judgment. [Citations.] . . .” [Citation.] “The burden is on the defendant to present clear and convincing evidence the ends of justice would be subserved by permitting a change of plea to not guilty.” [Citation.] [¶] “When a defendant is represented by counsel, the grant or denial of an application to withdraw a plea is purely within the discretion of the trial court after consideration of all factors necessary to bring about a just result. [Citations.] On appeal, the trial court’s decision will be upheld unless there is a clear showing of abuse of discretion. [Citations.] [Citation.] “Guilty pleas resulting from a bargain should not be set aside lightly and finality of proceedings should be encouraged.”” ( *People v. Nocelotl* (2012) 211 Cal.App.4th 1091, 1096.) “Good cause” means mistake, ignorance, fraud, duress or any other factor that overcame the defendant’s exercise of free judgment. ( *People v. Alexander* (2015) 233 Cal.App.4th 313, 318.)

Moreover, “a reviewing court must adopt the trial court’s factual findings if substantial evidence supports them. [Citation.]’ [Citations.] “Guilty pleas resulting from a bargain should not be set aside lightly and finality of proceedings should be encouraged.” [Citation.]’ [Citation.] ‘[T]he fact that a hearing court’s ruling on a [Penal Code] section 1018 motion is reviewed by us under the “abuse of discretion” standard appropriately results in our paying considerable deference to the hearing court’s factual findings: “All questions of the weight and sufficiency of the evidence are addressed, in the first instance, to the trier of fact, in this case, the trial judge.”” ( *People v. Archer* (2014) 230 Cal.App.4th 693, 702.)

The trial court's denial of Desvignes's request to withdraw his pleas was well within the court's discretion. Desvignes never claimed that the inducement for the pleas was improper or that the prosecutor misrepresented the facts. He did not claim the case against him did not have a factual basis or was brought in bad faith, nor did he contend the sentence was disproportionate to his culpability. Although Desvignes initially suggested he felt pressure to enter his plea, at the subsequent hearing he acknowledged he wanted to withdraw his pleas only because he had not personally received all discovery produced by the prosecutor. The trial court did not abuse its discretion in concluding Desvignes made a rational and voluntary choice when he accepted the plea agreement and in denying the motion to withdraw the pleas.

### **DISPOSITION**

The judgment is affirmed.

SEGAL, J.

We concur:

PERLUSS, P. J.

FEUER, J.