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Court of Criminal Appeals
State of Alabama
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MEMORANDUM

CR-12-0229

Madison Circuit Court CC-11-1131

Amy Bishop Anderson v. State of Alabama

WINDOM, Presiding Judge.

Amy Bishop Anderson appeals her guilty-plea convictions for one count of capital murder, in violation of § 13A-5-40(a)(10), Ala. Code 1975, and three counts of attempted murder, violations of §§ 13A-4-2 and 13A-6-2, Ala. Code 1975; and her resulting sentences of life in prison without the possibility of parole for her capital-murder conviction and life in prison for each of her attempted-murder convictions. Anderson did not file any postconviction motions. This appeal follows.

Anderson does not challenge the sufficiency of the evidence. On February 12, 2010, Anderson, a professor at the University of Alabama in Huntsville, drew a 9mm handgun during a biology department faculty meeting and shot six of her colleagues, killing three and wounding three others.

Dr. Debra Moriarty was in the meeting and witnessed the shooting. Moriarty testified that she heard three shots and ducked down under the conference table. She then attempted to grab Anderson by her ankles to stop her. Anderson stepped away as Moriarty pleaded with her to stop shooting. Anderson then turned the gun towards Moriarty and pulled the trigger, but the gun jammed. Moriarty and Anderson moved toward the hallway where Anderson tried to shoot Moriarty again. The gun jammed again, and Moriarty was able to get into the conference room and shut the door. Anderson went to a restroom and disposed of the gun and her blood-stained jacket. She then borrowed a cell phone from someone to call her husband to pick her up. Anderson went to the basement loading dock where she was to meet her husband, but was taken into custody by law enforcement.

On appeal, Anderson raises numerous issues relating to the voluntariness of her guilty pleas. Specifically, she contends that she was not informed of her rights or the rights she would be waiving by pleading guilty, she was not correctly informed of the minimum range of punishment, the circuit court failed to explain that she could withdraw her plea and appeal from the denial of said motion as required by Rule 26.9(b)(4), Ala. R. Crim. P., the circuit court did not provide her with an opportunity to state any objections regarding her defense counsel or the handling of her case, the circuit court failed to explain the elements of the offenses and provide her with adequate notice of the charges against her, and the circuit court failed to inform her of her right to compulsory process and her right to confront the witnesses against her. As a result, Anderson argues that her pleas were not knowing or voluntary and the circuit court lacked the jurisdiction to accept her guilty pleas. Anderson, however, failed to first present these arguments to the circuit court; therefore, they are not preserved and, thus, not properly before this Court.

In Mitchell v. State, this Court held that, when appealing from a guilty plea, an issue "must be both preserved

by a timely and specific motion and/or objection and an adverse ruling from the trial court and reserved for appeal before the entry of the plea." 913 So. 2d 501, 505 (Ala. Crim. App. 2005) (emphasis in original). Specifically, this Court stated:

"Reserving the right to appeal an issue is not the equivalent of preserving an issue for appellate review. To preserve an issue for appellate review, the issue must be timely raised and specifically presented to the trial court and an adverse ruling obtained. The purpose of requiring an issue to be preserved for review is to allow the trial court the first opportunity to correct any error. See, e.g., Ex parte Coulliette, 857 So. 2d 793 (Ala. 2003). To reserve an issue for review, a defendant must express his or her intention, before the guilty plea is entered, to appeal the issue in question. Because a guilty plea waives all nonjurisdictional defects occurring before the entry of the plea, by entering a guilty plea a defendant is presumed to have abandoned all nonjurisdictional defects that occurred before the plea unless he or she expressly conditions the plea on the right to appeal the issue in question by expressly reserving it before entry of the plea."

Mitchell, 913 So. 2d at 505 (some emphasis added) (citing Prim v. State, 616 So. 2d 381 (Ala. Crim. App. 1993)).

In this case, Anderson did not challenge the validity of her guilty pleas in the circuit court and did not file either a motion to withdraw her pleas or a motion for a new trial. Consequently, her challenges to the validity of her guilty pleas are not preserved for this Court's review. See Ex parte Parks, 892 So. 2d 372, 375 (Ala. 2004) (Because the appellant "did not first present to the trial court his claim that his guilty plea was involuntary, he has waived his right to appeal as to that issue. Therefore, the Court of Criminal Appeals correctly held that Parks's claim was not preserved for appeal"); Harris v. State, 563 So. 2d 9, 11 (Ala. Crim. App. 1989) (defendant must first obtain an adverse ruling in order to preserve an issue for appellate review); Jordan v. State, 574 So. 2d 1024, 1025 (Ala. Crim. App. 1990) (claim was not

preserved for appellate review where defendant did not first present his argument to the trial court). See also Boglin v. State, 840 So. 2d 926, 929 (Ala. Crim. App. 2002) ("In addition, just like a challenge to the voluntariness of a guilty plea, the issue of the voluntariness of a waiver of the right to appeal will be reviewed on direct appeal if it is first presented to the trial court."). Therefore, Anderson is not entitled to any relief.

Accordingly, the judgment of the circuit court is affirmed.

AFFIRMED.

Welch, Kellum, Burke, and Joiner, JJ., concur.