PROVINCIAL COURT OF NOVA SCOTIA
Citation: *R v Alexander*, 2026 NSPC 16

Date: 20260416
Docket: 8576729, 8576733
Registry: Pictou

Between:

His Majesty the King

v.

Shane Arlington Alexander

DECISION REGARDING APPLICATION TO WITHDRAW GUILTY PLEAS

Judge:	The Honourable Judge Del W Atwood
Heard:	2026: 14 January in Pictou, Nova Scotia
Written reasons released:	2026: 16 April
Charge:	Section 5(2) of the *Controlled Drugs and Substances Act* [*CDSA*]
Counsel:	Angela Nimmo for the Public Prosecution Service of Canada Ashley Wolfe for Shane Arlington Alexander

By the Court:

Synopsis

[1] On 27 September 2023, Mr Shane Arlington Alexander appeared for trial on four charges of possessing various Schedule I and Schedule III substances for the purposes of trafficking; by that time, one year and two months had passed since his arraignment. Instead of going to trial, Mr Alexander, represented by senior and experienced counsel, entered guilty pleas to two counts involving Schedule I substances (cases 8576729 (cocaine) and 8576733 (methamphetamine)); it was a negotiated plea outcome, which led to the prosecution offering no evidence against Mr Alexander on the two remaining counts.

[2] In accordance with § 606(1.1) of the *Criminal Code* [*Code*], the presiding judge undertook a full plea inquiry, and was satisfied that Mr Alexander's pleas were entered freely, voluntarily, unequivocally, and based on a full understanding of the allegations against him. The prosecution read into the record an abbreviated statement of fact, which was not contested by Mr Alexander. The presiding judge recorded a finding of guilt.

[3] On Mr Alexander's application, there was an extended adjournment of sentencing to allow Mr Alexander to address health issues he was experiencing at the time.

[4] Almost 7 months after Mr Alexander had pleaded guilty, his counsel applied to be removed from the case. Mr Alexander retained new counsel on a legal-aid certificate. Successor counsel brought an application to permit Mr Alexander to withdraw his guilty pleas. The prosecution opposed the application.

[5] That application was heard by me on 14 January 2026. I dismissed the application with brief oral reasons, but with detailed written reasons to follow.

[6] The following are the reasons of the Court.

Application evidence—Mr Alexander's testimony

[7] Mr Alexander testified in support of his application. No other witnesses were called.

[8] Mr Alexander stated on direct examination that, prior to the date of his guilty plea, someone had thrown a container of deep-fried oil in his direction; he suffered a serious burn which went septic.

[9] Mr Alexander testified that, when he came to court on 27 September 2023, he was in a wheel chair. There was a different judge than he had had on his previous appearance, and it threw him off. He was in pain and thought he was going to die. He was hospitalized around 4 October 2023. He was intubated for liquid on his lungs, and was told that he was put in an induced coma. Mr Alexander informed the Court that he still has to go for blood work every 6 months.

[10] Mr Alexander is determined to fight for his freedom now that he has a mind that is sound.

[11] On cross-examination, Mr Alexander was hesitant to acknowledge his prior record.

[12] He stated that he had no recollection of what was said in Court when he put in his guilty pleas. He claimed not to have spoken with his former counsel at all that day. Mr Alexander stated that he felt rushed by his former counsel; his former counsel would not postpone his trial date to have a friend fight for him.

[13] Mr Alexander acknowledged that he did not make a complaint to the Barristers' Society about his former counsel.

[14] Mr Alexander stated that his former counsel talked to him about somebody named Isaiah Izzard; however, the person who had been charged with Mr Alexander was a person named Isaiah Crant. Mr Alexander denied leaving a message for his former counsel about wanting to plead guilty. He denied asking his former counsel to seek a lower sentence.

[15] Mr Alexander insisted that he wanted his former counsel to bring in Mr Crant. Mr Alexander wanted time for Mr Crant to be located and brought to court. Mr Alexander felt that his former counsel was not batting for him 100 per cent.

[16] Mr Alexander stated that he felt he had been backed into a corner. He knew what a guilty plea meant when in his right mind, but not when his body was shutting down.

[17] Mr Alexander did not recall his former counsel having him sign a waiver of an appeal.

[18] Mr Alexander stated that he was taken to the hospital the next day, 28 September 2023, and then rushed to the hospital after that. Mr Alexander was shown medical records that his counsel had included in the defence brief which contained no treatment records for 27 September 2023 to 1 October 2023.

Application evidence--exhibits

[19] The following exhibits were tendered in evidence:

Exhibit #	***Tendered by (P=prosecution; D=defence***	***Description of exhibit***
1	P	Affidavit of Douglas Lloy KC; neither party sought to examine or cross-examine Mr Lloy on the contents of his affidavit.
2	P	JEIN report listing Mr Alexander's criminal record.
3	P	Transcript of proceedings of 27 September 2023.
4	D	Waiver of solicitor-client privilege signed by Mr Alexander.
5	P	Medical records for Mr Alexander (tendered by P, but included in the defence brief).
6	D	Medical letter from Paul Bonnar MD FRCPC dated 28 Nov 2024.

Governing legal principles

[20] A guilty plea terminates the rights of an accused to make full answer and defence to the allegations in a charge and should be accepted only with care and discernment: *R v Hoang*, 2003 ABCA 251 at ¶ 18 [*Hoang*]. [1]

[1] See also *R v MacPherson*, 2024 NSSC 405, a summary-conviction appeal from conviction which was advanced on the basis that the accused had not been represented by counsel when he pleaded guilty. Although the appeal was dismissed, the decision is problematic, as it does not address the obligation of an accused person to exercise diligence in retaining counsel. Nor does it appear to recognize the recurrent problem of accused persons purposely delaying retaining counsel—or dismissing them at the height of litigation—as a dilatory tactic. The same delay-inducing results can arise with strategic applications to withdraw entirely valid guilty pleas. These sort of schemes might not arise often; however, they typically crop up in cases when intentional delay has the most damaging effect.

[21] Guilty pleas entered through plea resolution are central to the criminal-justice system; maintaining their finality is important to ensuring the stability, integrity and efficiency of the administration of justice: *R v Wong*, 2018 SCC 25 at ¶ 3 [*Wong*]. To protect finality, a court should not allow a guilty plea to be withdrawn except in exceptional circumstances: *Hoang*, at ¶ 25.

[22] A sentencing court has the discretion to allow an accused person to withdraw a guilt plea prior to sentence being imposed if there are valid grounds for it: *R v Symonds*, 2018 NSCA 34 at ¶ 20 [*Symonds*]; the burden of proving invalidity rests with the accused on a balance of probabilities. Valid grounds are not frivolous grounds or grounds apparently lacking in substance; a valid ground would be one affecting the validity of the plea or otherwise constituting a miscarriage of justice: *R v MacIntosh*, 2004 NSCA 19 at ¶ 5.

[23] While it has been held that a trial judge may summarily dismiss an application to withdraw a guilty plea when application materials fail to demonstrate a "prospect of success"—*R v Joseph*, 2018 BCCA 284 at ¶ 25—in my view, an application should receive a full hearing unless it is manifestly frivolous: *R v Haevischer*, 2023 SCC 11 at ¶ 3, 41, 66-73, 81-89. In Mr Alexander's case, there is some medical evidence supporting the application; further, the prosecution

has not moved for summary dismissal of it. Accordingly, the Court conducted a full hearing.

[24] A guilty plea may be found invalid if it was not voluntary, unequivocal and informed, or if the circumstances indicate that a miscarriage of justice occurred: *Symonds*, *ibid*; *R v Krzehlik*, 2015 ONCA 168 at ¶ 26; *R v JCF*, 2020 ABCA 313 at ¶ 8.

[25] A guilty plea entered in open court will be presumed voluntary: *R v Hexamer*, 2018 BCCA 142 at ¶ 70.

[26] Although rendered as a decision on whether to permit a guilty plea to be withdrawn on appeal, *R v Desrochers*, 2018 MBCA 55, offers a non-exhaustive list of relevant factors that would be relevant to withdrawal-of-guilty-plea applications brought before sentencing courts:

- whether the accused had a prior record that demonstrates that he had participated in plea proceedings before.
- whether the accused was represented by counsel and whether there is a challenge to the adequacy of that representation.

- evidence of any medical issues of the accused at the time of the guilty plea.
- evidence of any pressure from the accused's own counsel, the prosecution or anyone else.
- the viability of any defence.

[27] When an application to withdraw a guilty plea is based on a claim of ineffective assistance of counsel, there is a strong presumption that the conduct of counsel was situated within a wide range of reasonable, professional assistance; there is a heavy burden upon an accused applicant to show that counsel's acts or omissions did not meet a standard of reasonable, professional judgment: *Symonds* at ¶ 22.

Findings of fact

[28] Having reviewed the application evidence and the record of proceedings before the Court, I make the following findings of fact.

[29] At no point during proceedings against Mr Alexander was his fitness to stand trial ever raised. Nor has Mr Alexander brought any application alleging that the disclosure provided to him by the state was inadequate or incomplete. There is no evidence that he was being pressured by the prosecution.

[30] The affidavit of Mr Alexander's former counsel (Exhibit 1) satisfies me that he reviewed all disclosed material carefully with Mr Alexander and discussed with him possible defences. I find the affidavit to be credible and trustworthy: counsel for Mr Alexander did not seek to have the affiant cross-examined, and I find the statements of fact recited in the affidavit regarding proceedings on 27 September 2023 fully consistent with the transcript of evidence (Exhibit 3).

[31] In preparing for trial, former defence counsel sought to locate Mr Alexander's friend, Mr Crant, but was unable to do so.

[32] Former defence counsel received a sentencing proposal from the prosecution which he discussed with Mr Alexander by telephone on 24 July 2023, just over two months prior to trial.

[33] Former defence counsel followed this up with a letter to Mr Alexander on 17 August 2023.

[34] Mr Alexander told his former defence counsel that he would try to find Mr Crant, and instructed former defence counsel to continue to prepare for trial.

[35] Mr Alexander and his former counsel spoke again on 5 September 2025. Mr Alexander had been unable to locate Mr Crant. Counsel advised Mr Alexander that his intended defence of non-possession was unlikely to raise a reasonable

doubt. However, the decision to proceed to trial remained entirely in Mr Alexander's hands.

[36] Mr Alexander telephoned the office of his former defence counsel on 6 September 2023 and left a message with a staff member that he was willing to plead guilty with certain stipulations, including a postponement of sentencing.

[37] Former defence counsel acted promptly, and spoke with Mr Alexander by telephone. Mr Alexander confirmed instructions that he wished to take advantage of the lesser sentencing position the prosecution was taking should guilty pleas be entered, but with defence counsel at liberty to seek a sentence less than that sought by the prosecution.

[38] Former defence counsel reviewed in detail with Mr Alexander the effect of a guilty plea.

[39] On 27 September 2023, Mr Alexander reconfirmed his instructions to enter guilty pleas to the counts involving cocaine and methamphetamine.

[40] The transcript of proceedings from 27 September 2023 (Exhibit 3) informs the Court that Mr Alexander entered those guilty pleas before the presiding on 27 September 2023. The judge then conducted a detailed questioning of Mr Alexander to ensure that his pleas were being entered freely and voluntarily.

When Mr Alexander stated that there were "stipulations", his former counsel elaborated that Mr Alexander wanted to get back some of his belongings and get his sentencing hearing put off.

[41] The presiding judge then read to Mr Alexander, *verbatim*, the two charges in question, and he pleaded guilty to both.

[42] The prosecution then recited a summary of the facts pertaining to the charges, in accordance with § 723-724 of the *Code*. During the recitation of facts, the presiding judge observed that Mr Alexander was in pain; Mr Alexander confirmed that he was hearing everything the prosecutor was saying, and wished the sentencing hearing to continue. Mr Alexander responded appropriately to all of the inquiries made of him by the presiding judge, and was able to advocate for himself that he wished to proceed with the sentencing hearing.

[43] After the prosecutor finished reciting the facts, Mr Aleander's former counsel informed the Court that the facts were not in dispute.

[44] The presiding judge ordered the preparation of a presentence report, and granted Mr Alexander's request for an extended adjournment of sentencing to allow him time to get his personal affairs in order.

[45] Based on the medical letter from Dr Paul Bonnar (Exhibit 6) and based on Mr Alexander's testimony, I am satisfied that Mr Alexander was likely suffering from a bloodstream infection on 27 September 2023. However, I am not satisfied that this condition affected Mr Alexander's cognitive level to the extent that it rendered his guilty pleas as involuntary or uninformed. While I was prepared, in fairness to Mr Alexander, to waive the requirements of § 657.3(1) of the *Code* regarding the reception of a report of an expert, that fact is that Dr Bonnar offered the opinion that "*most patients* with sepsis do not have a normal level of consciousness" [emphasis added]; he did not offer an opinion that was specific to Mr Alexander, nor one pinpointed to 27 September 2023.

[46] I do not accept Mr Alexander's testimony regarding him not having told his former counsel that he wished to plead guilty. His responses to the presiding judge on 27 September 2023, as recorded in Exhibit 3, satisfy me that, while he might have been in pain, he was cognitively alert; he entered his guilty pleas freely, voluntarily, after having had the advice of senior and fully competent counsel.

[47] Mr Alexander's JEIN record (Exhibit 2) demonstrates that he is not criminal-process naïve: Mr Alexander knows from his experience in the criminal-justice system precisely what a guilty plea is all about.

[48] As detailed in Exhibit 1, following 27 September 2023, Mr Alexander's former counsel continued to advocate for him. He arranged to have Mr Alexander's property returned to him, and had Mr Alexander sign a waiver of appeal in order to expedite that.

[49] Significantly, Mr Alexander's testimony did not appear to offer an explicit denial of having committed the offences to which he pleaded guilty. Apart from the issue of the adequacy of his legal representation, he was focussed on the role of Mr Crant. That is something that would be able to be addressed at a sentencing hearing.

Decision on application to withdraw guilty pleas

[50] Mr Alexander has not established on a balance of probabilities that his guilty pleas were uninformed, involuntary or in any way equivocal.

[51] The Court dismisses Mr Alexander's application to withdraw his guilty pleas.

[52] I would observe that, in two appearances since I rendered a brief oral decision in this case, Mr Alexander has returned to Court with a number of grievances.

[53] He has stated that he was not permitted on his application to ask questions about Mr Crant. I have reviewed the record of proceedings of 14 January 2026 when his application was heard: the only time I intervened during questioning was when I would not permit the prosecution to cross-examine Mr Alexander further, as I considered the cross-examination repetitive and uninformative.

[54] Mr Alexander's other concern is that, when he was arraigned, the presiding judge shouted at him, and would not allow him to raise the subject of Mr Crant. In reviewing the record, I have determined that I was the presiding judge on 18 July 2022 when Mr Alexander first appeared before the Court by telephone to answer to the charges. The audio recording of proceedings for that day are clear: the Court and Mr Alexander engaged in a civil and respectful conversation, and no one shouted at anyone else. At no point did Mr Alexander mention Mr Crant.

[55] Regarding Mr Crant, Mr Alexander is fully able to call Mr Crant at his sentencing hearing if he is able to find him. Mr Alexander will have the opportunity to speak to sentence, and may tell the Court anything he feels that Court ought to know about Mr Crant's role in the charges before the Court.

[56] The Court will fix a date for sentencing.

Atwood, JPC