

In the  
Indiana Supreme Court

Derrick A. Pratcher,  
Appellant,

v.

State of Indiana,  
Appellee.

Court of Appeals Case No.  
25A-CR-01656

Trial Court Case No.  
71D03-2303-MR-3



Published Order

This matter has come before the Indiana Supreme Court on a petition to transfer jurisdiction, filed pursuant to Indiana Appellate Rules 56(B) and 57, following the issuance of a decision by the Court of Appeals. The Court has reviewed the decision of the Court of Appeals, and the submitted record on appeal, all briefs filed in the Court of Appeals, and all materials filed in connection with the request to transfer jurisdiction have been made available to the Court for review. Each participating member has had the opportunity to voice that Justice's views on the case in conference with the other Justices, and each participating member of the Court has voted on the petition.

Being duly advised, the Court DENIES the petition to transfer.

Done at Indianapolis, Indiana, on 2/11/2026.

A handwritten signature in black ink that reads "Loretta H. Rush".

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Loretta H. Rush  
Chief Justice of Indiana

Rush, C.J., concurs in the denial of transfer with separate opinion in which Massa, Slaughter, Goff, and Molter, JJ., join.

## **Rush, C.J., respecting the denial of transfer.**

This case presents the recurring problem of criminal defendants being misadvised about the consequences of signing plea agreements that include provisions waiving the right to appeal their sentences. Although the Court of Appeals properly followed precedent in dismissing this appeal, I write to explain the steps our courts and attorneys must take to ensure defendants are not misled and to protect the finality of plea agreements.

Derrick Pratcher signed a plea agreement stating he would plead guilty but mentally ill to murder. The agreement left Pratcher's sentence open for the trial court to decide, and Pratcher agreed to waive his right to appeal the sentence if it was within the agreement's terms. But at a hearing, the court incorrectly told Pratcher that he was not giving up the right to appeal his sentence, that he could appeal the sentence if he thought it was "excessive," and that he would be appointed "a lawyer to handle that appeal" if he could not afford one. Neither the State nor Pratcher's counsel intervened. The court then accepted Pratcher's plea and later imposed a maximum sixty-five-year sentence. Pratcher appealed, arguing that the trial court abused its discretion and that the sentence was inappropriate in light of the nature of his offense and his character. But, relying on the appeal waiver, the Court of Appeals dismissed Pratcher's appeal on the State's motion.

Our precedent requires this outcome because Pratcher's written plea agreement is an enforceable contract. *Davis v. State*, 217 N.E.3d 1229, 1232 (Ind. 2023). And no exception applies here. Pratcher did not raise an issue outside the scope of his waiver, *see id.* at 1236 n.3, assert a violation of the plea agreement, or allege that his sentence was illegal because it fell "outside the prescribed statutory range" or was "unconstitutional," *Anderson v. State*, 269 N.E.3d 817, 822 (Ind. 2025). Nor did he argue, until his reply brief on transfer, that the waiver provision was ambiguous. *See Davis*, 217 N.E.3d at 1232–33.

At the same time, it has become far too common for defendants to receive incorrect advisements from our trial courts about appeal waivers. *See, e.g., Grate v. State*, 213 N.E.3d 1025, 1026–27 (Ind. 2023) (Rush, C.J.,

dissenting from denial of transfer) (citing cases in reminding our courts to “be clear, consistent, and accurate when making statements related to those waivers during hearings”). Inaccurate or contradictory statements by a judge about an agreement’s appeal-waiver provision can mislead a defendant into pleading guilty without fully understanding the consequences, rendering the plea involuntary and subject to collateral attack through post-conviction proceedings. *Davis*, 217 N.E.3d at 1233. Such statements therefore threaten the finality and certainty of convictions secured through plea agreements. For these reasons, it is imperative that courts and counsel ensure defendants receive clear and accurate advisements.

When a defendant signs a plea agreement that leaves sentencing discretion to the trial court and contains a waiver of the right to appeal the sentence, the court should:

1. Explain that the defendant would ordinarily have the right to appeal their sentence, but the plea agreement contains a waiver limiting that right.
2. Read the appeal-waiver provision to the defendant.
3. Explain that the provision waives the defendant’s right to appeal the sentence to be imposed, except for:
  - any issue that falls outside the scope of the waiver;
  - a sentence that violates the plea agreement; or
  - a sentence that is illegal because it falls outside the prescribed statutory range or is unconstitutional.
4. Confirm the defendant understands the consequences of the appeal-waiver provision before accepting the guilty plea.

Attorneys also have a role in ensuring appeal-waiver provisions are clear and defendants are accurately advised. Given the stakes in preserving finality and certainty, the State should draft appeal-waiver provisions that unambiguously and specifically describe which appeal rights the defendant is waiving and retaining. Defense counsel should then confirm that the provisions are clear and that their clients understand these rights. And counsel for both sides should respectfully intervene during a guilty plea hearing to correct any confusing or incorrect

statements by a judge. Together, the bench and bar can ensure that defendants are properly advised so that plea agreements achieve their intended finality.

Massa, Slaughter, Goff, and Molter, JJ., join.