United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 17-3096 **September Term, 2018**

FILED ON: APRIL 5, 2019

UNITED STATES OF AMERICA,
APPELLEE

v.

JOSEPH CHRISTOPHER BROWN,
APPELLANT

Appeal from the United States District Court
for the District of Columbia
(No. 1:16-cr-00092-1)

Before: GARLAND, *Chief Judge*, SRINIVASAN, *Circuit Judge*, and RANDOLPH, *Senior Circuit Judge*.

JUDGMENT

The court has considered this appeal on the record from the United States District Court for the District of Columbia, and on the briefs and oral arguments of the parties. The court has given the issues full consideration and has determined that they do not warrant a published opinion. *See* FED. R. APP. P. 36; D.C. CIR. R. 36(d). It is hereby

ORDERED AND ADJUDGED that the judgment of the District Court is **AFFIRMED**.

Appellant Christopher Brown pled guilty to one count of distributing child pornography in violation of 18 U.S.C. § 2252(a)(2). Prior to sentencing and represented by new counsel, Brown sought to withdraw his guilty plea, principally on the ground that "his pre-existing long history of mental health issues" prevented him from knowingly and voluntarily accepting the plea. J.A. 84; Brown Br. 6. The district court denied Brown's motion, and we affirm. In reviewing a district court's refusal to permit withdrawal of a guilty plea, we consider "(1) whether the defendant has asserted a viable claim of innocence; (2) whether the delay between the guilty plea and the motion to withdraw has substantially prejudiced the government's ability to prosecute the case; and (3) whether the guilty plea was

somehow tainted." *United States v. Jones*, 642 F.3d 1151, 1156 (D.C. Cir. 2011) (citations omitted).

Here, the government has conceded that it would suffer no prejudice. Gov. Br. 18. Nonetheless, Brown has not asserted any claim of innocence, arguing only that he had grounds on which he could have moved to suppress incriminating evidence. Reply Br. 3-4. Brown likewise fails to substantiate his argument that his plea was tainted by his history of mental-health issues. To the contrary, the record demonstrates that Brown was at least twice deemed competent to stand trial, once by a psychologist as directed by a magistrate judge and once by a psychologist hired by the defense. The record also demonstrates that the district court's Rule 11 colloquy prior to Brown's plea, which established that the plea was knowing and voluntary, was thorough and free of error.

Pursuant to D.C. CIR. R. 36(d), this disposition will not be published. The Clerk is directed to withhold issuance of the mandate until seven days after resolution of any timely petition for rehearing or rehearing en banc. *See* FED. R. APP. P 41(b); D.C. CIR. R. 41.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Ken Meadows
Deputy Clerk