

**Affirmed and Opinion filed April 6, 2000.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-98-00515-CR & 14-98-00516-CR**

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**SHARON NEFF WALLACE, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 178<sup>th</sup> District Court  
Harris County, Texas  
Trial Court Cause No. 756,917 & 756,918**

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**OPINION**

Appellant Sharon Neff Wallace pleaded guilty to two counts of felony theft for embezzling \$2.4 million from her employer, Bechtel. The trial court sentenced her to fifteen years' confinement. In her sole point of error, Wallace contends that the trial court erred in failing to conduct a hearing on her motions for new trial. We disagree and affirm her convictions.

Wallace's motions for new trial asserted that her pleas of guilty were involuntary because she desired a jury trial but her lawyer had persuaded her otherwise. She requested a hearing on the motions

for new trial and attached affidavits that averred all facts in the motions were true. The trial court denied her request for a hearing and her motions for new trial.

The right to a hearing on a motion for new trial is not absolute. *Reyes v. State*, 849 S.W.2d 812, 815 (Tex. Crim. App.1993); *Bruno v. State*, 916 S.W.2d 4, 8 (Tex. App.--Houston [1st Dist.] 1995, pet ref'd.). A defendant has a right to a hearing on a motion for new trial when the motion raises matters that cannot be determined from the record. *Reyes*, 849 S.W.2d at 815. Further, as a prerequisite to obtaining a hearing, the motion for new trial must be supported by affidavit. *Id.* at 816. The affidavit must show reasonable grounds that would entitle the defendant to a hearing on the motion. *Jordan v. State*, 883 S.W.2d 664,665 (Tex. Crim. App. 1994). If a defendant's motion for new trial and supporting affidavit are sufficient, a hearing on the motion is mandatory. *Reyes*, 849 S.W.2d at 816. A defendant need not establish a prima facie case for a cognizable ground raised in a motion for new trial; he must assert only reasonable grounds for relief that are not determinable from the record. *Jordan*, 883 S.W.2d at 665. The purpose of the hearing is for a defendant to develop the issues raised in a motion for new trial. *Id.*

In this case, Wallace's motions and affidavits fail to raise reasonable grounds not determinable from the record. Her motions claim she desired a jury trial and her plea of guilty was involuntary. Her motions also claim that her attorney persuaded her to plead guilty and waive her right to a jury trial. However, the record reflects that Wallace signed a waiver of her constitutional right to trial by jury. In her waiver, she further stated that she was satisfied with her attorney and that she had fully discussed the case with him. Finally, Wallace stipulated that her plea was voluntary and that the range of punishment for each of her offenses was five to ninety-nine years' imprisonment. Because her motions for new trial do not raise reasonable grounds extrinsic to the record, the trial court did not abuse its discretion in denying her an evidentiary hearing on her motions.

Accordingly, we overrule Wallace's point of error and affirm the judgments of the trial court.

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Ross A. Sears  
Justice

Judgment rendered and Opinion filed April 6, 2000.

Panel consists of Justices Sears, Draughn, and Hutson-Dunn.\*

Do Not Publish — TEX. R. APP. P. 47.3(b).

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\* Senior Justices Ross A. Sears, Joe L. Draughn, and D. Camille Hutson-Dunn sitting by assignment.