

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

State of Ohio

Appellee

Court of Appeals Nos. L-08-1311
L-08-1312
L-08-1313

v.

Trial Court Nos. CR0200802332
CR0200802352
CR0200802353

Ronald R. Smith

Appellant

DECISION AND JUDGMENT

Decided: June 30, 2009

* * * * *

Julia R. Bates, Lucas County Prosecuting Attorney, and
Michael J. Loisel, Assistant Prosecuting Attorney, for appellee.

Nicole Y. Fech, for appellant.

* * * * *

SINGER, J.

{¶ 1} Appellant, Ronald R. Smith, appeals the Lucas County Court of Common Pleas decision on a motion to withdraw his guilty pleas, which was filed before

sentencing. Because we conclude that the trial court committed no reversible error, we affirm.

{¶ 2} On June 16, 2008, appellant entered guilty pleas to the following charges: (1) aggravated robbery with a firearm specification, a first degree felony; (2) two counts of robbery, second degree felonies; and (3) one count of felonious assault, a second degree felony. On August 7, 2008, he filed a motion to withdraw his guilty pleas. Following a hearing, the trial court denied his motion and appellant now appeals setting forth the following assignment of error:

{¶ 3} "The trial court abused its discretion when it denied appellant's request to withdraw his plea."

{¶ 4} A presentence motion to withdraw a plea of guilty should be freely and liberally granted. *State v. Xie* (1992), 62 Ohio St.3d 521, 526. A defendant, however, does not have an absolute right to withdraw a guilty plea prior to sentencing. There must be a reasonable and legitimate basis for the withdrawal of the plea. *Id.* at paragraph one of the syllabus. The decision to grant or deny a defendant's motion lies within the sound discretion of the trial court. *Id.* at paragraph two of the syllabus. Absent an abuse of discretion, the decision of the trial court must be affirmed. *Id.* at 527. In order to find an abuse of discretion, a reviewing court must find more than error; the reviewing court "must find that the trial court's ruling was 'unreasonable, arbitrary or unconscionable.'" *Id.*, quoting *State v. Adams* (1980), 62 Ohio St.2d 151, 157, 404 N.E.2d 144.

{¶ 5} To determine whether a trial court abused its discretion, we look to, inter alia, "(1) whether the state will be prejudiced by withdrawal; (2) the representation afforded to the defendant by counsel; (3) the extent of the Crim.R. 11 plea hearing; (4) the extent of the hearing on the motion to withdraw; (5) whether the trial court gave full and fair consideration to the motion; (6) whether the timing of the motion was reasonable; (7) the reasons for the motion; (8) whether the defendant understood the nature of the charges and potential sentences; and (9) whether the accused was perhaps not guilty or had a complete defense to the charge." *State v. Dellinger*, 6th Dist. No. H-02-007, 2002-Ohio-4652, ¶ 18; quoting *State v. Griffin* (2001), 141 Ohio App.3d 551, 554, 2001-Ohio-3203.

{¶ 6} Appellant contends that he wanted to withdraw his guilty pleas because he is innocent of all of the charges. Appellant also contends that he wanted to withdraw his guilty pleas because he did not fully understand the nature of complicity as it pertained to the firearm specification. The state maintains that appellant wanted to withdraw his pleas only after his co-defendant was sentenced to prison for 41 years for similar crimes.

{¶ 7} Under Crim.R. 11(C), a trial court is required to determine whether an offender's plea of guilty is knowing, intelligent, and voluntary. *State v. Engle* (1996), 74 Ohio St.3d 525, 526. The record of this case discloses that on June 13, 2008, the trial court conducted a full Crim.R. 11 hearing before accepting appellant's guilty plea. Appellant stated that he understood the nature of the charges against him and the possible sentences. He stated that he understood the language that the court was using and that his

mind was clear. Appellant told the court he was entering the pleas of his own free will. He then admitted to the charges and described the incidents leading up to his charges. With regards to the gun specification, he admitted he knew his co-defendant had a gun. Throughout the colloquy, appellant repeatedly responded that he understood the trial court's explanations and that he was not impaired or unduly pressured. Consequently, we find that appellant has failed to establish a reasonable and legitimate basis for granting his motion to withdraw his plea. Finding no abuse of discretion, appellant's sole assignment of error is found not well-taken.

{¶ 8} On consideration whereof, the judgment of the Lucas County Court of Common Pleas is affirmed. Appellant is ordered to pay the costs of this appeal pursuant to App.R. 24.

JUDGMENT AFFIRMED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4.

State v. Smith
C.A. Nos. L-08-1311
L-08-1312
L-08-1313

Peter M. Handwork, J.

JUDGE

Arlene Singer, J.

JUDGE

Thomas J. Osowik, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
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