

Commonwealth Of Kentucky

Court Of Appeals

NO. 2000-CA-000729-MR

JEFFREY KREIDLER

APPELLANT

v. APPEAL FROM KENTON CIRCUIT COURT
HONORABLE PATRICIA M. SUMME, JUDGE
ACTION NO. 99-CR-00547

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * * * * *

BEFORE: BUCKINGHAM, EMBERTON AND TACKETT, JUDGES.

EMBERTON, JUDGE: Jeffrey Kreidler appeals the denial of his motion to withdraw his plea of guilty to operating a motor vehicle while under the influence and first-degree possession of a controlled substance. We affirm.

On January 4, 2000, appellant appeared before the trial court for a hearing on his motion to plead guilty to the charges against him. After reviewing the motion signed by appellant and his attorney, the trial court conducted an extremely thorough and probing colloquy in which appellant denied promises, threats or coercion in relation to his plea. When asked to state the facts which supported his guilty plea, appellant at first stated that

he was in the wrong place at the wrong time and had made a mistake. The trial court refused to accept that answer informing appellant he needed to state facts which formed the elements of the crimes with which he was charged. Appellant conferred with his counsel and then responded that he had been driving under the influence and in possession of a controlled substance on the occasion in question. The trial court thereafter accepted appellant's plea and scheduled sentencing for February 14, 2000.

On that date, appellant appeared before the trial court with new counsel and filed a motion to withdraw his guilty plea alleging that his previous counsel had coerced him into pleading guilty. It was his new position that he had not driven under the influence and that a female companion had in fact possessed the controlled substances. After hearing argument of counsel, the trial court took the matter under submission, stating that it intended to review the video tape of the acceptance of the plea.

On February 21, 2000, the trial court denied appellant's motion to withdraw his plea. In explaining its decision to deny the motion, the trial court referenced a letter from appellant's previous counsel denying any coercive tactics to influence appellant to plead guilty. The trial court also noted that its review of the transcript of the plea disclosed that appellant was calm and direct and had no difficulty understanding the proceedings. Furthermore, it found that appellant's demeanor and his interaction with his counsel dispelled any suggestion that anything of a coercive nature was occurring between appellant and his counsel. Appellant was ultimately sentenced to

two years' probation in accordance with the Commonwealth's initial recommendation.

In Couch v. Commonwealth,¹ the court refused to find an abuse of discretion in the denial of a motion to withdraw, explaining its decision as follows:

Couch and his counsel were afforded opportunities down to the very last minute to withdraw the plea of guilty, and we can find nothing in this record to indicate that he was in any wise misled and surely not to the extent that the plea became involuntary. This court is of the opinion that the trial court properly exercised its discretion under RCR 8.10 in denying Couch's motion to withdraw his guilty plea.

Similarly, our review of the record of appellant's guilty plea confirms the propriety of the trial court's conclusions about appellant's demeanor and actions at that time. The Commonwealth fully performed its agreement and we, like the trial court, are of the opinion that appellant got the benefit of a very good deal. There is absolutely no evidence of abuse of discretion in this case. As a matter of fact, we take note that Judge Summe exercised the utmost care in protecting the rights of Mr. Kreidler during both his hearings.

The decision of the Kenton Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Darrell A. Cox
Covington, Kentucky

BRIEF FOR APPELLEE:

Albert B. Chandler III
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William L. Daniel II
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¹ Ky., 528 S.W.2d 712, 715 (1975).

