

RENDERED: October 3, 2003; 10:00 a.m.  
NOT TO BE PUBLISHED

# Commonwealth Of Kentucky

## Court Of Appeals

NO. 2002-CA-001977-MR

WILLIAM ANTHONY SHECKLES, JR.

APPELLANT

APPEAL FROM JEFFERSON CIRCUIT COURT  
v. HONORABLE JUDITH E. MCDONALD-BURKMAN, JUDGE  
ACTION NO. 00-CR-001890

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: BARBER, COMBS, AND KNOPF, JUDGES.

KNOPF, JUDGE. William Anthony Sheckles, Jr. appeals from the Jefferson Circuit Court's August 26, 2002, denial of his motion to withdraw his guilty plea resulting in a judgment of conviction and sentence. On appeal, Sheckles argues that the circuit court abused its discretion when it denied his motion to withdraw his guilty plea that was based on newly discovered evidence. Finding that the circuit court did not abuse its discretion, this Court affirms.

In the early hours of the morning on August 24, 2000, Sheckles beat his wife, Tara Lynn Sheckles, after he found her in bed with another man. Sheckles repeatedly hit Tara with his fists and with a heavy African tribal mask. Sheckles first attacked Tara in the couples' bedroom, then dragged her into a bathroom where he continued to beat her and finally left her, unconscious and half-clothed on the hallway floor, lying in a pool of her own blood.

On the same day, after signing a waiver of his Miranda rights, Sheckles gave a statement to the Louisville police that early on the morning of the 24<sup>th</sup>, he had returned home to find Tara unclothed and in bed with another man. Sheckles admitted that he attacked her but then quickly recanted. On August 25, 2000, while in the intensive care unit of the University of Louisville Hospital, Tara gave a statement to the police. She stated that Sheckles came home in the early hours of August 24<sup>th</sup>, and found her in bed with another man. In response to the investigating officer's question, Tara claimed that she and the other man were clothed. Tara described how Sheckles savagely beat her until she was unconscious. Later on September 4, 2000, Tara gave officers another statement regarding the attack. In her second statement, Tara related that during the attack, Sheckles told her to clean herself up so that he could have sex with her. Furthermore, Tara stated that during the attack,

Sheckles told her that if he wished, he could kill her and would not be convicted since he would plead temporary insanity. On August 25, 2000, Melissa Dawn Roden, Tara's sister, gave a statement to the police that Sheckles told her that he did not remember what he had done, that he would not get much time because he was going to plead temporary insanity and that Tara deserved it.

On August 31, 2000, a grand jury indicted Sheckles on one count of assault in the first degree, KRS 508.010, and one count of being a persistent felony offender in the second degree (PFO II), KRS 532.080. On July 30, 2002, the Commonwealth and Sheckles entered into a plea agreement. The Commonwealth offered to recommend a ten-year sentence enhanced to seventeen years if Sheckles would plead guilty to second-degree assault and PFO II. In reliance on the Commonwealth's offer, Sheckles pled guilty. The circuit court set sentencing for August 26, 2002.

On August 22, 2002, the circuit court received a letter from Tara in which she requested leniency for Sheckles. In the letter, Tara wrote, "He [Sheckles] did walk in when I [Tara] was lying in bed with someone. I did not tell the police that part. He didn't even look like the same Tony [Sheckles] I know he just looked like he was crazy. He has never acted like that before and I think that it was a one time thing." At

sentencing, Sheckles orally moved to withdraw his guilty plea based on the information in Tara's letter. The circuit court denied Sheckles motion and sentenced him in accordance with the Commonwealth's recommendation. Sheckles timely appealed to this Court.

On appeal, Sheckles argues that the Jefferson Circuit Court abused its discretion when it denied his motion to withdraw his guilty plea. As he argued before the circuit court, Sheckles points out that in her letter, Tara admits for the first time that Sheckles caught her in bed with another man. While Sheckles concedes that he could have proceeded to trial and have asked for an instruction on extreme emotional disturbance (EED) absent the information in Tara's letter, he argues that the information in the letter, such as Tara's statement that she was in bed with another man and her statement that Sheckles looked "crazy" when he attacked her, made an EED defense viable.

If a criminal defendant wishes to plead guilty, then pursuant to RCr 8.10, the trial court must determine on the record that the defendant is knowingly, freely, and voluntarily pleading guilty.<sup>1</sup> After a criminal defendant has pled guilty, he may move the trial court to withdraw his guilty plea. Pursuant

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<sup>1</sup> Bronk v. Commonwealth, Ky. 58 S.W.3d 482, 486 (2001).

to RCr 8.10, the trial court may within its discretion either grant or deny the defendant's motion.<sup>2</sup> However, the word "may" in RCr 8.10 does not give a trial judge unfettered discretion to deny a motion to withdraw a guilty plea without affording the defendant a hearing on the motion. If the plea was involuntary, the motion to withdraw it must be granted. A trial court only has the discretion to deny a motion to withdraw a guilty plea after a determination has been made that the plea was voluntary.<sup>3</sup>

To vitiate an otherwise knowing and voluntary guilty plea, newly discovered evidence must be of such decisive value or force that the defendant would not have entered a plea of guilty had he had access to the evidence.<sup>4</sup> In this case, while Tara's letter would undoubtedly bolster Sheckles's EED defense, the evidence is not so conclusive that it would have definitively influenced Sheckles's decision to enter the guilty plea. Even with the evidence, the jury could have chosen to believe that Sheckles was not acting under extreme emotional

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<sup>2</sup> Id.

<sup>3</sup> Rodriguez v. Commonwealth, Ky., 87 S.W.3d 8, 10 (2002).

<sup>4</sup> Foley v. Commonwealth, Ky., 55 S.W.3d 809, 814-15 (2000), considering a motion for a new trial based upon newly discovered evidence. As with a motion to set aside a guilty plea, the decision to grant a motion for a new trial under RCr 10.02 or CR 60.02 is left to the sound discretion of the trial court.

disturbance. Therefore, the trial court did not abuse its discretion by denying his motion to withdraw the guilty plea.

Thus, we affirm the Jefferson Circuit Court's judgment of conviction and sentence.

ALL CONCUR.

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