

No. 98-524

IN THE SUPREME COURT OF THE STATE OF MONTANA

1999 MT 45N

STATE OF MONTANA,

Plaintiff and Respondent,

v.

CHRISTOPHER COTE,

Defendant and Appellant.

APPEAL FROM: District Court of the Eighth Judicial District,

In and for the County of Cascade,

Honorable Marge Johnson, Judge Presiding.

COUNSEL OF RECORD:

For Appellant:

Carl B. Jensen, Jr., Great Falls, Montana

For Respondent:

Honorable Joseph P. Mazurek, Attorney General; Cregg W. Coughlin,

Assistant Attorney General, Helena, Montana

Brant S. Light, County Attorney; Susan Weber, Deputy County

Attorney, Great Falls, Montana

Submitted on Briefs: January 8, 1999

Decided: March 16, 1999

Filed:

Clerk

Chief Justice J. A. Turnage delivered the Opinion of the Court.

¶1. Pursuant to Section I, Paragraph 3(c), Montana Supreme Court 1996 Internal Operating Rules, the following decision shall not be cited as precedent but shall be filed as a public document with the Clerk of the Supreme Court and shall be reported by case title, Supreme Court cause number and result to the State Reporter Publishing Company and to West Group in the quarterly table of noncitable cases issued by this Court.

¶2. Christopher Cote appeals his sentencing by the Eighth Judicial District Court, Cascade County, for the offense of felony forgery. We affirm.

¶3. The issues are:

¶4. 1. Whether the District Court erred by failing to honor its offer allowing Cote to withdraw his plea.

¶5. 2. Whether the court abandoned its neutrality when it convinced Cote to proceed with the sentencing after offering him the opportunity to withdraw his plea, which he accepted.

¶6. 3. Whether the prosecutor violated the plea bargain by her conduct at the sentencing hearing.

¶7. All three of Cote's issues are raised for the first time on appeal. The rule is well-established that, absent plain error, this Court will consider for review only those issues raised in the pleadings or otherwise before the district court. *State v. Herrera*, 1998 MT 173, ¶¶ 17-18, ___ Mont. ___, ¶¶ 17-18, 962 P.2d 1180, ¶¶ 17-18, 55 St.Rep. 703, ¶¶ 17-18.

¶8. The transcript of Cote's sentencing hearing establishes that when he was offered an opportunity to withdraw his guilty plea, Cote initially stated that he wished to withdraw his plea, but then reconsidered. Thereafter, he gave no notice to the District Court that he was dissatisfied with the imposition of sentence. Nor did he object that the court somehow failed to allow him to withdraw his guilty plea. We will not address the challenge raised in Cote's first issue, because it is raised for the first time on appeal.

¶9. Similarly, nowhere in the District Court record does Cote raise any claim about any bias, prejudice, or lack of neutrality on the part of the District Court. Because he failed to bring this allegation to the attention of the District Court, we will not address Cote's second issue on appeal.

¶10. Likewise, as to Cote's third issue on appeal, Cote did not raise any objection to any of the prosecutor's comments during the plea hearing or allege a breach of the plea agreement below. This claim, too, has been waived and we will not consider it for the first time on appeal.

¶11. Affirmed.

/S/ J. A. TURNAGE

We concur:

/S/ JAMES C. NELSON

/S/ WILLIAM E. HUNT, SR.

/S/ TERRY N. TRIEWELER

/S/ JIM REGNIER