

[Cite as *Toledo v. Abu*, 2000-Ohio-2704.]

IN THE COURT OF APPEALS OF LUCAS COUNTY

City of Toledo

Court of Appeals No. L-00-1171

Appellee

Trial Court No. CRB-98-2489

v.

Muhammad Abu

DECISION AND JUDGMENT ENTRY

Appellant

Decided: December 22, 2000

* * * * *

Daniel Pilrose, Jr., for appellee.

Fred J. Burkholder, for appellant.

* * * * *

KNEPPER, P.J.

{¶1} This is an accelerated appeal from a judgment of the Toledo Municipal Court which denied, without hearing, appellant's motion to withdraw his plea of no contest.

{¶2} Appellant, who had been charged with one count of menacing by stalking, entered his plea on May 12, 1999 to a violation of R.C. 2933.02, complaint to keep the peace, and was ordered to execute a peace bond for a period of one year. On February 14, 2000, he filed his motion to withdraw his guilty plea, arguing that his plea was the result of a gross misunderstanding as to the effect of his plea.

{¶3} A hearing on a post-sentence motion to withdraw a guilty plea is not mandated if the facts alleged by the defendant and accepted as true by the trial court would not require the court to allow the withdrawal of the plea. State v. Blatnik (1984), 17 Ohio

App.3d 201, 204. Such a motion may be granted only to correct a manifest injustice and is addressed to the sound discretion of the trial court. Crim.R. 32.1; State v. Smith (1977), 49 Ohio St.2d 261, paragraph two of the syllabus; State v. Peterseim (1979), 68 Ohio App.2d 211, 213. Appellate review of a denial of a motion to withdraw a guilty plea is limited to whether the trial court abused its discretion in reaching its decision, that is, whether the court's attitude was unreasonable, arbitrary or unconscionable. Smith, supra, at 264; Peterseim, supra, at 214; Blatnik, supra, at 202. Upon thorough review of the record of proceedings in the trial court, we find that appellant raises no issue relative to the plea hearing on May 12, 1999 that rises to the level of manifest injustice. We therefore find that the trial court did not abuse its discretion by denying his motion without first holding a hearing. Accordingly, appellant's sole assignment of error is not well-taken.

{¶4} On consideration whereof, this court finds that appellant was not prejudiced, and the judgment of the Toledo Municipal Court is affirmed. Costs of this appeal are assessed to appellant.

JUDGMENT AFFIRMED.

James R. Sherck, J.

Richard W. Knepper, P.J.

JUDGE

George M. Glasser, J.
CONCUR.

JUDGE

JUDGE

Judge George M. Glasser, retired, sitting by assignment of the Chief Justice of the Supreme Court of Ohio.