

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
HOCKING COUNTY

STATE OF OHIO,	:	
	:	
Plaintiff-Appellee,	:	
	:	Case No. 14CA9
v.	:	
	:	<u>DECISION AND</u>
KAREN L. SHARPE,	:	<u>JUDGMENT ENTRY</u>
	:	
Defendant-Appellant.	:	Released: 05/27/2015

APPEARANCES:

Benjamin E. Fickel, Logan, Ohio for appellant

Laina R. Fetherolf, Hocking County Prosecuting Attorney and William L. Archer, Jr., Hocking County Assistant Prosecutor, Logan, Ohio for appellee

Hoover, P.J.

{¶ 1} Appellant-defendant Karen L. Sharpe appeals a decision from the Hocking County Court of Common Pleas denying her motion to suppress. Sharpe had argued at a suppression hearing that she did not understand her Miranda rights or waive them when police officers interviewed her on two separate occasions. The trial court denied the motion to suppress her statements. Thereafter, Sharpe pleaded guilty to one count of Endangering Children, a third degree felony, in violation of R.C. 2919.22(B)(2). The trial court sentenced Sharpe to three years of incarceration in the Ohio Department of Rehabilitation and Correction. We overrule her assignments of error because her guilty plea forfeits all claims of error except those going to the voluntariness of the plea.

{¶ 2} In February 2014, Sharpe was indicted on one count of Kidnapping, a first degree felony, in violation of R.C. 2905.01(A)(3), one count of Endangering Children, a third degree felony, in violation of R.C. 2919.22(B)(4), and one count of Endangering Children, a third degree felony, in violation of R.C. 2919.22(B)(2). Sharpe filed a motion to suppress statements to police that she had given on two separate occasions. Sharpe alleged that police violated her rights guaranteed by the Fifth Amendment against self incrimination and her Miranda rights. Detective Ed Downs of the Hocking County Sheriff's office conducted both interviews of Sharpe. Teresa Johnson, an investigator from South Central Job and Family Services was present for both interviews.

{¶ 3} Downs and Johnson both testified at the hearing on Sharpe's motion to suppress. Downs testified that one of Sharpe's granddaughters had a video of Sharpe placing underwear containing fecal matter in another granddaughter's mouth. In response to the allegation, Downs and Johnson, along with two other police officers went to Sharpe's house with a warrant for her arrest. Downs questioned Sharpe briefly at her home before Sharpe was transported to the Hocking County Sheriff's Office. Once at the office, Downs again questioned Sharpe about the allegations.

{¶ 4} Both interviews were transcribed and admitted as defendant's exhibits at the suppression hearing. In each interview, after Downs read Sharpe's Miranda rights, Sharpe gave an inaudible answer. At the suppression hearing, Downs testified that Sharpe acknowledged her rights at the beginning of both interviews. Regarding the interview at Sharpe's house, the transcript reads:

Det. Downs Well first of all I kind of want to touch base with you a little bit but
I've got to read you your rights before I talk to you, okay? You

have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney, if you cannot afford an attorney one will be appointed to represent you. Do you understand that?

Karen Sharpe (No answer heard)

Det. Downs Do you understand that? Yes, okay. I kind of want to talk to you about an incident (interrupted)

The conversation at the Sheriff's office was transcribed as follows:

Det. Downs So, I kind of want to talk to you about that that [sic] whole incident again okay. It is probably in your best interest to be honest with me.

Karen Sharpe Uh huh

Det. Downs Okay, I've got to read you your rights again. Okay, but you have the right to remain silent and anything you say can and will be used against you in a court of law. You have the right to an attorney and if you cannot afford one, one will be appointed to represent you, okay? Do you understand those?

Karen Sharpe (Inaudible)

Det. Downs Now out there you stated that you did put the diaper (interrupted)

{¶ 5} Johnson also testified:

Q [Prosecutor]: Were you present when he [Downs] advised her [Sharpe] of Miranda Rights?

A [Johnson] Yes.

Q [Prosecutor] Were you also present when he interviewed her [Sharpe] at the sheriff's office?

A [Johnson] Yes.

Q [Prosecutor] Did you hear him [Downs] advise her [Sharpe] of her Miranda Rights at that time?

A [Johnson] I did, yes.

Q [Prosecutor] On either of those occasions did you have reason to believe that she didn't understand her rights?

A [Johnson] No I did not.

Q [Prosecutor] Did she give some indication that she did, in fact, understand?

A [Johnson] Yes.

Q [Prosecutor] Do you recall what that indication was?

A [Johnson] At the time we were interviewing she nodded her head and I believe said yes. I saw her nodding her head.

{¶ 6} Appellant Sharpe also testified at the suppression hearing. Sharpe testified that she was on numerous medications at the time of her questioning and arrest. When she was asked if these medications affected her mental state she said yes. Sharpe denied ever responding, nodding or saying yes in response to Downs reading the Miranda rights to her.

{¶ 7} The trial court found that Sharpe's waiver of her rights was freely, knowingly, voluntarily and intelligently made. Accordingly, the trial court denied Sharpe's motion to

suppress her statements. On June 13, 2014, Sharpe pleaded guilty to Count III of the indictment, Endangering Children, a third degree felony, in violation of R.C. 2919.22(B)(2). The trial court sentenced Sharpe to three years in the Ohio Department of Rehabilitation and Correction. Shortly thereafter, Sharpe timely filed this appeal.

Appellant's First Assignment of Error:

THE TRIAL COURT ERRED WHEN IT DENIED APPELLANT-
DEFENDANT'S MOTION TO SUPPRESS HER STATEMENTS MADE TO
OFFICERS AFTER [SIC] INSUFFICIENT MIRANDA WARNINGS

{¶ 8} In her first assignment of error, Sharpe argues the trial court erred in denying her motion to suppress because Detective Downs presented insufficient Miranda warnings to her. Sharpe contends that Downs did not advise her that counsel could be appointed prior to questioning if she could not afford one. The State argues that because Sharpe entered a guilty plea, she cannot now challenge the trial court's decision on the motion to suppress.

{¶ 9} When a defendant pleads guilty, he/she has forfeited his/her right to appeal the trial court's decision on the motion to suppress. *State v. Johnson*, 4th Dist. Hocking No. 14CA16, 2015-Ohio-854, ¶¶ 5-6; *State v. Lee*, 4th Dist. Washington No. 13CA42, 2014-Ohio-4898; *State v. Jacobson*, 4th Dist. Adams No. 01CA730, 2003-Ohio-1201, ¶ 10; *see also Huber Hts. v. Duty*, 27 Ohio App.3d 244, 500 N.E.2d 339 (2nd Dist.1985); *State v. Kelley*, 57 Ohio St.3d 127, 56 N.E.2d 658 (1991), paragraph two of the syllabus (stating that a guilty plea "waives all appealable errors which may have occurred * * * unless such errors are shown to have precluded the defendant from voluntarily entering into his or her plea."). Here, Sharpe pleaded guilty to one count of the three for which she was originally charged. In exchange for the guilty plea on one count of Endangering Children, the State agreed to dismiss the other two counts in the indictment

and recommend a prison sentence of three years. Sharpe makes no argument that her plea was not voluntarily entered. Therefore, we must overrule Sharpe's first assignment of error.

Appellant's Second Assignment of error:

THE TRIAL COURT ERRED WHEN IT DENIED APPELLANT-
DEFENDANT'S MOTION TO SUPPRESS HER STATEMENTS MADE TO
OFFICERS WITHOUT SUFFICIENT WAIVER OF HER RIGHTS.

{¶ 10} In her second assignment of error, Sharpe argues that the State failed to meet its burden to show that there was a knowing and intelligent waiver of her Miranda rights. Sharpe contends that she did not understand her rights, as demonstrated by her inaudible response. The State again argues that Sharpe is precluded from challenging a trial court's decision denying a motion to suppress after she pleaded guilty.

{¶ 11} As with Sharpe's first assignment of error, she cannot challenge a trial court's ruling on a motion to suppress after she entered a guilty plea. Therefore, the second assignment of error is also overruled. The decision of the trial court is affirmed.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the JUDGMENT IS AFFIRMED. Appellant shall pay the costs herein taxed.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the Hocking County Court of Common Pleas to carry this judgment into execution.

IF A STAY OF EXECUTION OF SENTENCE AND RELEASE UPON BAIL HAS BEEN PREVIOUSLY GRANTED BY THE TRIAL COURT OR THIS COURT, it is temporarily continued for a period not to exceed sixty days upon the bail previously posted. The purpose of a continued stay is to allow Appellant to file with the Supreme Court of Ohio an application for a stay during the pendency of the proceedings in that court. If a stay is continued by this entry, it will terminate at the earliest of the expiration of the sixty day period, or the failure of the Appellant to file a notice of appeal with the Supreme Court of Ohio in the forty-five day appeal period pursuant to Rule II, Sec. 2 of the Rules of Practice of the Supreme Court of Ohio. Additionally, if the Supreme Court of Ohio dismisses the appeal prior to the expiration of sixty days, the stay will terminate as of the date of such dismissal.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

Harsha, J., and Abele, J.: Concur in Judgment and Opinion.

For the Court

By: _____
Marie Hoover
Presiding Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.