

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

---

JOURNAL ENTRY AND OPINION  
**No. 89256**

---

**STATE OF OHIO**

PLAINTIFF-APPELLEE

VS.

**DANNON SEE**

DEFENDANT-APPELLANT

---

**JUDGMENT:  
AFFIRMED**

---

Criminal Appeal from the  
Cuyahoga County Court of Common Pleas  
Case No. CR-485513

**BEFORE:** Dyke, J., Kilbane, P.J., and Stewart, J.

**RELEASED:** November 21, 2007

**JOURNALIZED:**

[Cite as *State v. See*, 2007-Ohio-6203.]

**ATTORNEY FOR APPELLANT**

Deanna Robertson, Esq.  
815 Superior Avenue, Suite 1325  
Cleveland, Ohio 44114

**ATTORNEYS FOR APPELLEE**

William D. Mason, Esq.  
Cuyahoga County Prosecutor  
By: William Leland, Esq.  
Asst. County Prosecutor  
The Justice Center, 8<sup>th</sup> Floor  
1200 Ontario Street  
Cleveland, Ohio 44113

[Cite as *State v. See*, 2007-Ohio-6203.]  
ANN DYKE, J.:

{¶ 1} Defendant Dannon See appeals from his guilty plea to attempted felonious assault, abduction, and domestic violence. For the reasons set forth below, we affirm.

{¶ 2} On August 28, 2006, defendant was indicted in connection with an alleged attack on his estranged wife. Count One charged him with attempted murder. Count Two charged him with kidnapping, and Count Three charged him with domestic violence. The state subsequently agreed to reduce Count One to set forth a charge of attempted felonious assault and Count Two to a charge of abduction. On November 6, 2006, defendant pled guilty to the amended charges and the domestic violence charge. On the date of sentencing, defendant made an oral motion to withdraw his guilty pleas. The trial court denied the motion and sentenced defendant to one year of community control sanctions plus three years of post-release control sanctions. He now appeals and assigns one error for our review.

{¶ 3} Defendant's first assignment of error states:

{¶ 4} "The court erred when it denied Appellant's Motion to withdraw his guilty pleas."

{¶ 5} Crim.R. 32.1 governs motions to withdraw guilty pleas and states in pertinent part, as follows:

{¶ 6} "[a] motion to withdraw a plea of guilty or no contest may be made only

before sentence is imposed \*\*\*."

{¶ 7} "[A] presentence motion to withdraw a guilty plea should be freely and liberally granted. Nevertheless, it must be recognized that a defendant does not have an absolute right to withdraw a plea prior to sentencing." *State v. Xie* (1992), 62 Ohio St.3d 521, 527, 584 N.E.2d 715. We review presentence motions to withdraw guilty pleas for an abuse of discretion. *Id.*

{¶ 8} In ruling on a presentence motion to withdraw a guilty plea, "the trial court must conduct a hearing to determine whether there is a reasonable and legitimate basis for the withdrawal of the plea." *Id.*

{¶ 9} A trial court should consider, *inter alia*, the following factors in considering a presentence motion to withdraw a guilty plea: (1) whether the accused is represented by highly competent counsel; (2) whether the accused was given a full Crim.R. 11 hearing before entering the plea; (3) whether a full hearing was held on the motion; (4) whether the trial court gave full and fair consideration to the motion; (5) whether the motion was made within a reasonable time; (6) whether the motion sets out specific reasons for the withdrawal; (7) whether the accused understood the nature of the charges and possible penalties; and (8) whether the accused was perhaps not guilty of or had a complete defense to the charge or charges. *State v. Fish* (1995), 104 Ohio App.3d 236, 239, 661 N.E.2d 788, citing *State v. Peterseim*, 68 Ohio App.2d 211, 213-214, 428 N.E.2d 863, *State v. Mathis* (May 30, 1990), Hamilton App. C-890286, and *State v. Cloud* (1993), 91 Ohio

App.3d 366, 632 N.E.2d 932.

{¶ 10} In this matter, the trial court held a full hearing pursuant to Crim.R. 11 before accepting the guilty plea and notified defendant of his Constitutional rights and other rights. At this hearing, the court ascertained that defendant fully understood the nature of the charges and possible penalties. The court then determined that the plea was knowingly, intelligently and voluntarily made. The record further indicates that defendant's trial attorney has extensive experience, diligently pursued a reduction of the charges and advocated that this was primarily a matter for the domestic relations court.

{¶ 11} The record also indicates that the trial court gave full and fair consideration to the motion. The oral motion was premised upon defendant's claim that at the time of the plea hearing, he did not know that he would be entering a guilty plea, his options were not explained to him and he felt like he had no alternative but to enter the guilty pleas. As these claims are completely refuted by the record, we conclude that the trial court acted within its discretion in denying the motion. This assignment of error is therefore without merit.

Affirmed.

It is ordered that appellee recover from appellant 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 common pleas court to carry this judgment into execution. The defendant's

conviction having been affirmed, any bail pending appeal is terminated. Case remanded to the trial court for execution of sentence.

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

ANN DYKE, JUDGE

MARY EILEEN KILBANE, P.J., and  
MELODY J. STEWART, J., CONCUR