

People v Corines

2019 NY Slip Op 34099(U)

March 28, 2019

Supreme Court, Westchester County

Docket Number: 18-0526

Judge: Barry E. Warhit

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

-----X
THE PEOPLE OF THE STATE OF NEW YORK

-against-

DECISION & ORDER
Indictment Number 18-0526


PETER CORINES,
Defendant.
-----X

WARHIT, J.

Through the within application, PETER CORINES, the defendant, seeks an Order of this Court permitting him to withdraw his previously entered pleas of guilty to one count each of grand larceny in the second degree, attempted grand larceny in the second degree, and identity theft in the first degree. The People oppose the relief sought. The following papers were considered on the motion by the defendant:

Papers

- Notice of Motion, Affirmation in Support (Exhibits 1-8)
- Affirmation in Opposition, Memorandum of Law (Exhibit A)


FILED
 MAR 28 2019
 TIMOTHY C. IDONI
 COUNTY CLERK
 COUNTY OF WESTCHESTER

Relevant Procedural and Factual Background

On April 24, 2018, PETER CORINES (“defendant”) was arrested and charged by felony complaint with one count of grand larceny in the second degree pertaining to an alleged scheme to steal significant amounts of money from a the 98 year-old woman. The defendant’s scheme took place in November of 2017 and included conduct such as obtaining the victim’s social security number and financial information, posing as the victim in order to create online accounts in her name, requesting checks from those account, altering the victim’s information with financial institutions, and withdrawing money from the victim’s bank accounts for the

defendant's benefit. Later that day, the defendant was arraigned on the felony complaint and agreed to execute an SCI waiver.

On May 24, 2018, the People and the defendant's attorney conducted an SCI conference in Westchester County Court (Warhit, J.) Despite the fact that the People recommended a state prison sentence of two to six years if the defendant pled guilty, the court indicated that it would sentence the defendant to a term of one year in the Westchester County Jail. Despite the court's position, the defendant refused to plead guilty and was ultimately indicted by a Westchester County Grand Jury with the felonies of scheme to defraud in the first degree, grand larceny in the second degree, attempted grand larceny in the third degree (six counts), and identity theft in the first degree (three counts).

On June 26, 2018, the defendant was arraigned in County Court (Schwartz, J.) and plead not guilty.

After the defendant's omnibus motion was heard and determined, the matter was found to be ready for trial and was sent to the Trial Assignment Part ("TAP") for an appearance on October 4, 2018.

On October 4, 2018, the defendant and his attorney, Peter Tilem, appeared in TAP, at which time the court (Warhit, J.) maintained his promise to sentence the defendant to one year in the Westchester County Jail, despite the People's recommendation that the defendant receive a state prison sentence of two and one-third to seven years.

On October 5, 2018, the defendant and his attorney appeared in TAP once again. At that time, the defendant agreed to the disposition discussed the previous day, which was clearly outlined on the record by the judge. The defendant was placed under oath and the Court began the plea voir dire. During the voir dire, the court confirmed that the defendant understood the

English language and wished to plead guilty to the three felonies of grand larceny in the second degree, attempted grand larceny in the second degree, and identity theft in the first degree. The court went on to ask the defendant if he had enough time to speak to his attorney about the plea, whether the attorney had answered all of the defendant's questions, and whether the defendant was "fully satisfied" with his attorney (*Affirmation in Support*, Exhibit 2). The defendant answered affirmatively to each of those questions. After indicating that he had not consumed any drugs, alcohol, or medication that would impair his ability to understand the proceedings, the defendant went on to indicate that he understood all of the constitutional rights that he was waiving by pleading guilty, such as a trial by a jury, and the defendant's right to remain silent. Once again, the judge meticulously outlined the sentence promise to the defendant.

Significantly, while under oath during the plea *voir dire* conducted by the judge, the defendant indicated that he was pleading guilty freely and voluntarily and because he was, in fact, guilty of the three felonies listed above.

The court went on to explain to the defendant the circumstances under which the court would not be bound by its sentence promise, such as if the defendant was arrested pending sentence and it was found, after an *Outley* hearing, that there was probable cause for the arrest. As he had throughout the previous questions, the defendant did not hesitate to tell the court that he understood and still wished to plead guilty.

Additionally, the defendant indicated that he understood his right to appeal and after an explanation of those rights by the court, was freely and voluntarily waiving those rights.

The defendant, through his attorney, then withdrew any pending motions and indicated that there were no immigration concerns since he is a U.S. citizen.

Thereafter, the prosecutor asked, and the defendant admitted, with factual detail, that he

committed the crime of grand larceny in the second degree by stealing property in excess of \$50,000. Similarly, the defendant admitted that he had committed the crime of attempted grand larceny in the second degree. These admissions were unequivocal.

Next, the defendant was asked if he was pleading guilty to the crime of identity theft in the first degree. He indicated that he was, but when he was asked to admit the elements of the crime, the defendant requested an opportunity to speak to his attorney. His request was granted. In fact, the court advised the defendant that he could “always interrupt by speaking to [his] lawyer” (*id*). After a brief pause in the proceedings so that the defendant could confer with his attorney, the factual allocution continued. Once again, the defendant asked for a moment to speak to his attorney. The court granted the request, explaining to the defendant that if he was not guilty of that particular count, the judge would not accept a guilty plea to the count. After another brief recess, the defendant’s attorney requested that the defendant plead guilty to a different count of the indictment but which was still a charge of identity theft in the first degree. The People and the court agreed, and the allocution continued. As he had with respect to the earlier counts of the indictment, the defendant indicated that he understood what crime he was pleading guilty to, that he was pleading guilty freely and voluntarily, and that he was pleading guilty to the crime because he was, in fact, guilty of the crime. Once again, the defendant was asked to admit the facts underlying the criminal conduct. While the defendant admitted to some of the elements of the crime, he equivocated as to others. Concerned over the defendant’s equivocations, the court indicated that the defendant needed a trial since he was “not accepting responsibility” (*id*). The defendant responded “I accept responsibility” (*id*). To be sure of the defendant’s guilt, the court pressed on with the questioning during which the defendant admitted that he intended to defraud the victim and that he knew his conduct was illegal. Finally, the

defendant indicated that he understood everything that had been said in court.

Based upon the foregoing, the court found the defendant entered his plea of guilty freely, knowingly and voluntarily and entered it on his behalf. The matter was adjourned to January 10, 2019, for sentencing.

Prior to sentencing on January 10, 2019, the parties appeared back in court on October 16, 2018, pursuant to a letter that the defendant had sent to the court. The sum and substance of that letter was that the defendant had ongoing medical issues that was he concerned about given his upcoming incarceration. Additionally, the defendant made allegations that the judge had threatened the defendant and had a particular predisposition towards the victim and against the defendant. At the court appearance on October 16, 2018, called by the court to settle any outstanding issues mentioned in the defendant's letter, the court attempted to have the defendant reaffirm his guilty plea. After an unsuccessful attempt to do so, the court explained to the defendant that he had a right to file a written motion to withdraw his guilty plea.

On December 31, 2019, the defendant, by a new attorney, filed the within motion to withdraw his guilty plea, arguing that he was coerced to plead guilty by the court and his family and received ineffective assistance from his prior counsel. The People oppose the motion, pointing out that the plea was freely, voluntarily, and knowingly entered and any other conclusion is belied by the record. Furthermore, the People argue that the plea allocution established the defendant's satisfaction with his lawyer, whose effectiveness is evident from the favorable disposition that the defendant received.

Findings of Law

A guilty plea, which is a compromise reached after negotiation between the defendant and the People, is intended to signify the end of a criminal case; it is not anticipated to serve as a

"gateway" to further litigation (*see People v. Hansen*, 95 NY2d 227, 230 [2000]; *People v. Taylor*, 65 NY2d 1, 5 [1985]). Although the law contemplates a procedure by which a defendant may move to withdraw a previously entered plea of guilty, the determination as to whether a particular defendant is entitled to this relief rests squarely within the court's discretion (CPL § 220.60[3]; *see People v. Alexander*, 97 NY2d 482 [2002]; *People v. Elmendorf*, 45 AD3d 858, 859 [2d Dept. 2007]). In fact, it is well settled that applications to withdraw pleas of guilty are to be granted sparingly and only in situations where there is some evidence of innocence or fraud or mistake in inducing the plea (*see People v. Smith*, 54 AD3d 879 [2d Dept. 2008]; *People v. Pillich*, 48 AD3d 1061 [2008]).

There is absolutely no evidence in the record of the defendant's innocence or of fraud or mistake in inducing his plea of guilty. Self-serving, unsubstantiated generalized claims of innocence and coercion do not provide a valid basis upon which a defendant is entitled to withdraw knowing, intelligent and freely entered pleas of guilty (*see People v. Feliciano*, 53 NY2d 645 [1981]; *People v. Dixon*, 29 NY2d 55 [1971]; *People v. Pantojas*, 182 AD2d 782 [2d Dept. 1992]; *People v. Walters*, 176 AD2d 277 [2d Dept. 1991]). In any event, the defendant's unsubstantiated claims are belied and contradicted by his sworn acknowledgment, upon direct inquiry by the Court, that he is guilty and pled voluntarily.

A plea of guilty should be upheld as long as it was entered knowingly, voluntarily and intelligently entered (*see Elmendorf*, 45 AD3d at 859; *People v. Fiumefreddo*, 82 NY2d 536 [1993]). The plea minutes amply demonstrate that the defendant entered his plea of guilt, after a comprehensive plea allocution during which, under oath, he categorically acknowledged his complete satisfaction with his attorney, as well as the fact that he was pleading guilty freely and voluntarily, and doing so because he was, in fact, guilty. Moreover, the record demonstrates that


the defendant understood everything that was going on in the proceedings and that the defendant had been entirely satisfied with his attorney's representation.

In considering a defendant's application to withdraw a previously entered plea of guilty, the court is "entitled to rely on the record to ascertain whether any promises, representations, implications and the like were made to the defendant" and "induced his plea of guilty" (*People v. Ramos*, 65 NY2d 640, 642 [1984] [internal citations omitted]). As the record is wholly devoid of anything to suggest that the defendant's plea was either improvident or baseless, it is an appropriate exercise of this Court's discretion to deny the within motion (*see People v. Hansen*, 269 AD2d [2d Dept. 2000]; citing *People v. Rosa*, 239 AD2d 364 [2d Dept. 1997])

On the whole, the record reveals that the defendant's plea was entered knowingly and voluntarily after this Court made proper inquiry into his understanding of the proceedings and the rights he was forfeiting by his plea. Therefore, and as the circumstances presented herein do not constitute the rare instance in which a defendant should be afforded an evidentiary hearing upon his motion to withdraw his plea of guilty, the defendant's motion is denied in its entirety (*see People v. Avery*, 18 AD3d 244 [1st Dept. 2005]; *People v. Sain*, 261 AD2d 488, 489 [2d Dept. 1999]; citing CPL § 220.60[3]).

The foregoing constitutes the opinion, decision and order of this Court.

Dated: White Plains, New York
March 28, 2019



Honorable Barry E. Warhit
Supreme Court Justice

TO: ANTHONY A. SCARPINO, JR.
District Attorney, Westchester County
111 Dr. Martin Luther King, Jr. Boulevard
White Plains, New York 10601
Attention: A.D.A. Emily Rowe-Smith

JEFFREY P. CHARTIER, ESQ.
Attorney for the Defendant
2027 Williamsbridge Road
Bronx, New York 10461

CLERK OF THE COURT