

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	: No. 99-10,820
	:
vs.	: CRIMINAL
	:
DALE WAYNE LANNEN,	: Motion to Withdraw
Defendant	: Guilty Plea

ORDER

AND NOW, this day of July 2000, the Court GRANTS the defendant's Motion to Withdraw his guilty plea. The Court notes that a request to withdraw a guilty plea prior to sentencing is to be liberally granted for any fair and just reason. The Court finds that the defendant was in pain from a back injury and taking prescription medications for such pain at the time of his guilty plea. Although the Court questions whether this medication affected the defendant's ability to understand the questions posed to him during the oral guilty plea colloquy, when the defendant's assertion of innocence during the hearing on his motion to withdraw¹ is considered in addition to the fact the defendant was taking prescription medication, the Court finds the defendant has asserted a fair and just reason to withdraw his guilty plea.²

¹Although the defendant did not assert his innocence in his motion, he asserted it at the hearing in response to questioning by the prosecutor. The prosecutor opened the door to this issue by specifically asking the defendant if he was asserting his innocence when such was not mentioned during direct examination. The prosecutor also did not object to the Court considering this assertion of innocence when ruling on the defendant's motion.

²In addition, the colloquy may not have sufficiently explained the nature of the charges against the defendant.

Defense counsel is responsible for notifying his client to appear for a pre-trial conference on July 13, 2000 at 1:30 p.m.

By the Court,

Kenneth D. Brown, J.

cc: District Attorney
John Felix, Esquire
APO