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FILED
MAY 26 1981
CLERK SUPREME COURT

IN THE IOWA COURT OF APPEALS

STATE OF IOWA,)

Plaintiff-Appellee,)

vs.)

)

JEFFREY BLANK,)

Defendant-Appellant.)

Filed May 26, 1981

1-78
65311

Appeal from Woodbury District Court. D. M. Pendleton, Judge.

Defendant appeals from judgment imposed following his plea of guilty to second degree robbery in violation of sections 711.1 and 711.3, The Code 1979. AFFIRMED.

Richard L. McCoy, Sioux City, Ia., for defendant-appellant.

Thomas J. Miller, Attorney General of Iowa, and Mark R. Schuling, Assistant Attorney General, for plaintiff-appellee.

Heard by Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

Defendant, Jeffrey Blank, appeals from judgment imposed following his plea of guilty to second degree robbery in violation of sections 711.1 and 711.3, The Code 1979. We affirm. Our review is on error assigned. Iowa R. App. P. 4.

Defendant raises as error 1) court's denial of continuance of sentencing, and 2) court's refusal to allow defendant to withdraw guilty plea.

Defendant entered a plea of guilty on June 13, 1980, in a plea bargaining arrangement. Sentencing was set for July 3, 1980. Defendant discussed withdrawing his plea with his attorneys, but by the time required for filing of motion in arrest of judgment, no motion had been filed. Defendant moved for a continuance of sentencing in order to obtain a transcript of the guilty plea hearing and to timely file a motion in arrest of judgment. A hearing was held on defendant's motion. The court determined there was no good cause for continuance and denied the motion.

The granting of continuances is well within a trial court's discretion. State v. Kyle, 271 N.W.2d 689 (Iowa 1978). We find no abuse of discretion in the court's refusal as defendant sought to circumvent the time requirement rules of which he was adequately informed. See Iowa R. Crim. P. 23(3)(b).

At sentencing defendant asked to withdraw his guilty plea and to forestall pronouncement of judgment. A defendant may seek to withdraw a guilty plea at any time before judgment. Iowa R. of Crim. P. 8(2)(a). A defendant does not have an absolute right to withdraw, however. State v. Weckman, 180 N.W.2d 434, 436 (Iowa 1970). It is a matter for the court's discretion. Id.

Defendant argues he was not permitted a hearing on the matter. The sentencing judge also presided at the plea hearing and the continuance hearing. If it can be determined the plea was entered by the defendant with full knowledge of the charge and consequences and without fear or persuasion, the court may refuse the withdrawal request. Weckman, supra, at 436. The court in this case was familiar with prior proceedings. Furthermore, defendant made no offer of evidence at the sentencing hearing to support his request. In addition, defendant has not shown that he was prejudiced by the lack of a hearing on his request. We find the circumstances to be controlled by Weckman and find no abuse of discretion.

AFFIRMED.