

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-090826
	:	TRIAL NO. B-0903885
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
ERIC HAYNES,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Eric Haynes appeals his conviction for unlawful sexual conduct with a minor. We conclude that his sole assignment of error is without merit, so we affirm the judgment of the trial court.

Haynes was indicted for two counts of unlawful sexual conduct with a minor. He pleaded guilty to one of the counts. After conducting a Crim.R. 11 colloquy with Haynes, the trial court accepted his plea. The state dismissed the second count.

At the sentencing hearing, the court indicated that it was troubled by what it had seen in the presentence-investigation report. Before the court imposed the sentence, it asked Haynes if he would like to comment. Haynes then made an oral motion to withdraw his plea, claiming that he had not taken his medication on the day of the plea. The trial court recalled that, during the plea hearing, the court had specifically asked about Haynes's medication and had been told by Haynes that he understood the plea hearing. Haynes also claimed that he had wanted a continuance

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

on the day of the plea, but that he had received no assistance from his counsel in requesting one. The trial court denied Haynes's motion to withdraw his plea and sentenced him to one year's confinement.

In his sole assignment of error, Haynes asserts that the trial court erred when it denied his motion to withdraw his guilty plea. We review the trial court's denial of a presentence motion to withdraw a guilty plea for an abuse of discretion.² "A defendant does not have an absolute right to withdraw a guilty plea prior to sentencing. A trial court must conduct a hearing to determine whether there is a reasonable and legitimate basis for the withdrawal of the plea."³ Contrary to Haynes's contention, the trial court did conduct a hearing on his motion. Haynes did not offer any evidence in support of his claims, nor did he dispute the facts underlying the offense with which he had been charged. Rather, it appears that Haynes had a change of heart after realizing that the trial court was looking negatively at what it had seen in the presentence-investigation report. We conclude that the trial court did not abuse its discretion when it denied the motion.

The sole assignment of error is overruled, and we therefore affirm the judgment of the trial court.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

SUNDERMANN, P.J., HENDON and MALLORY, JJ.

To the Clerk:

Enter upon the Journal of the Court on July 21, 2010

per order of the Court _____
Presiding Judge

² See *State v. Xie* (1992), 62 Ohio St.3d 521, 584 N.E.2d 715, paragraph two of the syllabus.

³ *Id.*, paragraph one of the syllabus.