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## **NEW YORK COURT OF APPEALS CASE COMPILATIONS: PEOPLE V. ALEXANDER**

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*PEOPLE V. ALEXANDER*<sup>1</sup>  
(decided, March 21, 2002)

I. SYNOPSIS

The New York Court of Appeals held in a majority opinion that the supreme court did not abuse its discretion when it denied the defendant's motion to withdraw his guilty plea after claiming to be incompetent and when the charges were dropped before sentencing.<sup>2</sup> The majority also held that a court-ordered psychiatric exam that failed to address the defendant's mental competency at the time he pled guilty did not constitute reversible error.<sup>3</sup> The majority opinion was drafted by Judge Rossenblatt. Chief Judge Kay, Judges Levine, Ciparick, Wesley and Graffeo concurred. Judge Smith dissented.<sup>4</sup>

II. BACKGROUND

The defendant was indicted for beating his girlfriend and was held in contempt for violating a court order to stay away from the victim.<sup>5</sup> At trial, the defendant entered an *Alford* plea to the criminal contempt charge.<sup>6</sup> While he was awaiting his sentence, the defendant attempted to withdraw his guilty plea claiming he was incompetent when he pled.<sup>7</sup> In response to the motion, the trial court ordered a psychiatric examination to determine if the defendant was competent to stand trial.<sup>8</sup> The examining physicians concluded that while the defendant did require medication for a personality disorder, he was neither an incapacitated person nor did he suffer from any condition that would prevent him from

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1. 97 N.Y.2d 482 (2002).

2. *Id.* at 484.

3. *Id.* at 485.

4. *Id.* at 488.

5. *Id.* at 484; *see also* N.Y. PENAL LAW § 215.51(b)(v)(2002).

6. *Alexander*, 97 N.Y.2d at 484; *see also North Carolina v. Alford*, 400 U.S. 25 (1970) (An *Alford* plea is a plea that does not involve a recitation of guilt and is typically entered as a result of a plea bargain).

7. *Alexander*, 97 N.Y.2d at 484.

8. *Id.*; *see also* N.Y.CRIM.PROC. LAW § 730 (2002).

standing trial.<sup>9</sup> Although the examining physicians did not make any conclusions as to the defendant's condition on the day he entered the plea, the trial court denied the defendant's motion to withdraw his plea.<sup>10</sup>

On appeal, the defendant argued that the trial court erred in denying his motion to withdraw his guilty plea.<sup>11</sup> Defendant argued that he was incompetent at the time he entered the plea and therefore it was invalid.<sup>12</sup> Additionally, the defendant argued the plea should be invalidated because the court did not ask the defendant if he was on medication.<sup>13</sup> Finally, the defendant argued the plea was invalid for the following reasons: the victim no longer wished to pursue the charges; the victim was a drug addict and made up the charges; and the court failed to inquire as to whether he could in fact perform the assault. Thus, the defendant argued he was in fact innocent.<sup>14</sup>

### III. DISCUSSION

In a unanimous decision, the appellate division denied the defendant's motion and affirmed the trial court's decision.<sup>15</sup> As for the defendant's first argument, the appellate division held that the defendant was not incompetent because he indicated that he "understood both the nature of the proceeding and that he was waiving various rights, that he was satisfied with the services of his attorney, and that he wished to enter an *Alford* plea to avoid the possibility of being convicted of a more serious charge."<sup>16</sup> As to the defendant's second argument, the appellate division held that the trial court's lack of inquiry into the defendant's medication did not necessarily invalidate the plea because the defendant indicated "that he understood the nature of the proceedings and the ramifications of the plea."<sup>17</sup> As to the defendant's third argument, the appellate divi-

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9. *Alexander*, 97 N.Y.2d at 484.

10. *Id.*

11. *People v. Alexander*, 726 N.Y.S.2d 328 (App. Div. 2001).

12. *Id.*

13. *Id.*

14. *Alexander*, 97 N.Y.2d at 485-486 (Defendant argued that because of a medical condition he was not able to kick the victim as she alleged).

15. *Alexander*, 726 N.Y.S.2d at 328.

16. *Id.*

17. *Id.*

sion held that it was not necessary for the trial court to make an inquiry into the defendant's ability to perform the act because an *Alford* plea did not require a factual recitation and the defendant's "responses during the plea colloquy establish[ed] that the decision of the defendant to enter an *Alford* plea was a voluntary and intelligent choice among alternative courses of action available to him."<sup>18</sup> The defendant appealed to the New York Court of Appeals.

On appeal, the defendant reiterated the same three arguments to demonstrate that the trial court abused its discretion when it denied his motion to dismiss the plea.<sup>19</sup> The court of appeals first stated the general rule that trial judges are vested with discretion when deciding whether a plea could be withdrawn.<sup>20</sup> The reasoning behind this rule is that trial judges are in the best position to decide whether a plea was entered into voluntarily, knowingly, and intelligently.<sup>21</sup> The court further noted that requests to withdraw guilty pleas are not granted without reason, and as such, a plea typically marks the end of a case and bars further litigation.<sup>22</sup>

The court of appeals cited several cases where they upheld a trial court's decision to deny a motion to withdraw a guilty plea.<sup>23</sup> In *People v. Dixon*, the court held that the defendant was not entitled to withdraw a guilty plea due to a subsequent, unsupported, claim of innocence because the plea was made voluntarily and under the advice of counsel.<sup>24</sup> In *People v. Feliciano*, the court held that the trial court did not abuse its discretion when it denied the defendant's motion to withdraw a guilty plea on the grounds that he was ill and confused when he made the plea.<sup>25</sup>

The court of appeals did, however, recognize some instances where a denial of a motion to withdraw a plea was an abuse of discretion.<sup>26</sup> In *People v. Englese*, the court held that the trial court

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18. *Alexander*, 726 N.Y.S.2d at 328. See also *People v. Crandall*, 710 N.Y.S.2d 127 (App. Div. 2000).

19. *Alexander*, 97 N.Y.2d at 482.

20. *Id.* at 485.

21. *Id.*

22. See *Id.* (citing *People v. Taylor*, 65 N.Y.2d 1, 5 (1985); *People v. Frederick*, 45 N.Y.2d 520, 525 (1978)).

23. *Alexander*, 97 N.Y.2d at 485.

24. 29 N.Y.2d 55 (1971).

25. 53 N.Y.2d 645 (1981).

26. 97 N.Y.2d at 485 (2002).

erred in denying the motion where the indictment mislabeled a misdemeanor as a felony. In *People v. Nettles*, the court determined the trial court should have granted the motion when the plea was the result of a "mutual mistake of fact and law."<sup>27</sup>

Without addressing these two cases, the court of appeals determined that, in this case, the trial court did not abuse its discretion.<sup>28</sup> The court noted that the defendant, with advice of counsel, told the trial court that "he understood the nature of the proceedings and that his guilty plea entailed a waiver of various rights."<sup>29</sup> Further, the defendant noted that he understood that by submitting the *Alford* plea, he was pleading guilty because he did not want to be found guilty of a higher charge.<sup>30</sup> Based on these facts, the court of appeals determined there was nothing to indicate the defendant was uninformed, confused, or incompetent when he made the plea and that there was enough evidence for the trial court to assess whether he was alert and knowledgeable enough to plead guilty voluntarily.<sup>31</sup>

The court of appeals also ruled that even if the defendant had a history of mental illness and had failed to take his medication the day he pled guilty, it did not necessarily lead to the conclusion that he was incompetent to plead guilty on his own behalf.<sup>32</sup> Furthermore, the court stated that even though the defendant was emotionally distraught when he made the plea, it was not a basis to require a withdrawal of the plea.<sup>33</sup> In making its ruling on the defendant's competence, the court also considered the defendant's criminal history and noted that the defendant was a repeat offender and was very familiar with the criminal justice system, having been arrested over fifty times and pled guilty forty-two times.<sup>34</sup>

As to the defendant's argument that he was innocent because he was physically incapable of committing the acts alleged, the court of appeals repeated the reasoning used by the appellate divi-

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27. 30 N.Y.2d 841, 842 (1972).

28. *Alexander*, 97 N.Y.2d at 486.

29. *Alexander*, 97 N.Y.2d at 486.

30. *Id.*

31. *Id.*

32. *Id.*

33. *Alexander*, 97 N.Y.2d at 486, citing *People v. Green*, 75 N.Y.2d 902 (1990).

34. *Alexander*, 97 N.Y.2d at 486 citing *People v. Frederick*, 45 N.Y.2d at 525.

sion.<sup>35</sup> The court of appeals stated that because the defendant's *Alford* plea did not require a recitation of guilt, but rather a negotiation of the charge, it was not incompatible with his claims of innocence.<sup>36</sup> The court also noted that the defendant's allegations only raised issues of credibility, which a trial court has the discretion to summarily resolve against the defendant.<sup>37</sup> Finally, the court added that defendant did not plead guilty to the assault on the victim, but rather pled guilty to the lesser charge of criminal contempt.<sup>38</sup>

As to the defendant's argument that the plea was invalid because the victim no longer wished to pursue them and in fact made them up, the court stated that the reluctance of a victim to pursue charges is not a sufficient reason to require a withdrawal of a guilty plea.<sup>39</sup> The court also noted that the particular circumstances surrounding the crime were significant.<sup>40</sup> The court recognized that in many domestic violence cases, such as this one, there is a cycle of domestic abuse in which beatings are followed by the victim's unwillingness to pursue the charges.<sup>41</sup> The court found it unacceptable to allow this pattern to be used to withdraw a guilty plea.<sup>42</sup>

In his dissent, Judge Smith argued that the trial court was obligated to determine the defendant's competence to plead because the failure of the court to find a factual basis for the plea undermined a fundamental principle that "no person should be found guilty without some evidence from that person or the prosecutor that there is factual basis for the plea."<sup>43</sup>

In making his argument, Judge Smith first outlined the crime of criminal contempt in the first degree which required, in relevant part, "actual physical contact or the threat of physical contact."<sup>44</sup> Considering the allegation that the victim, a former drug addict, lied about the physical abuse and that the defendant was physically

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35. *Alexander*, 97 N.Y.2d at 487.

36. *Id.*

37. *Id.*

38. *Id.*

39. *Id.*

40. *Id.*

41. *Alexander*, 97 N.Y.2d at 487.

42. *Id.* ("It is regrettable enough that this pattern exists, let alone that it should be used in support of a motion to withdraw a guilty plea.")

43. *Id.* at 488-490

44. *Id.* at 489.

incapable of committing the acts he was accused of, Judge Smith argued that the court should not have accepted the *Alford* plea without requiring the prosecution to show some kind of proof that the defendant could have been guilty.<sup>45</sup> Judge Smith agreed that the *Alford* plea did not require a recitation of guilt, which meant the defendant did not allocate any factual basis for his plea.<sup>46</sup> Without such allocation, it became even more important for the prosecutor to prove. Otherwise the principle that no person should be found guilty without a factual determination would be violated.<sup>47</sup>

#### IV. CONCLUSION

The New York Court of Appeals concluded the trial court did not abuse its discretion when it refused to grant the defendant's motion to withdraw his guilty plea. Accordingly, the court affirmed the order of the appellate division.

*Eric Young*

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45. *Alexander*, 97 N.Y.2d at 489.

46. *Id.*

47. *Id.*