

**OHIO COURT OF APPEALS, SEVENTH APPELLATE DISTRICT,
COLUMBIANA COUNTY**

State v. Jones

2020-Ohio-4714 (Ohio Ct. App. 7th Dist. 2020) · No. 18 CO 0023 · Decided September 29, 2020

SUMMARY

The Ohio Seventh District Court of Appeals denied the State of Ohio’s application for reconsideration of its decision reversing the denial of Tiona Jones’s presentence motion to withdraw her guilty plea. The court concluded that the State had not identified an obvious error or an issue that the court had failed to consider, and reaffirmed its analysis of the relevant factors and abuse-of-discretion standard.

CASE DETAILS

COURT	Ohio Court of Appeals, Seventh Appellate District, Columbiana County
WRITING FOR THE COURT	Per Curiam; Gene Donofrio; Cheryl L. Waite; David A. D'Apolito
JURISDICTION	Ohio
DECIDED	September 29, 2020
DOCKET	18 CO 0023
DISPOSITION	other
PROCEDURAL POSTURE	The State of Ohio filed an application under Ohio Appellate Rule 26 for reconsideration of the court's prior decision reversing the Columbiana County Common Pleas Court's denial of Jones's presentence motion to withdraw her guilty plea.
STANDARD OF REVIEW	An application for reconsideration under Ohio Appellate Rule 26 is granted when it identifies an obvious error in the appellate decision or raises an issue that the court failed to consider when it should have. A presentence motion to withdraw a guilty plea is reviewed for abuse of discretion, applying the nine factors identified in State v. Fish.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Tiona L. Jones v. State of Ohio

TOPICS

appellate procedure

standard of review

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plea bargaining

PRACTICE AREAS

criminal procedure

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QUESTIONS PRESENTED

1. Whether the State identified an obvious error or an insufficiently considered issue warranting reconsideration under Ohio Appellate Rule 26.
2. Whether the appellate court erred in concluding that the trial court abused its discretion by denying Jones's presentence motion to withdraw her guilty plea.
3. Whether the appellate court improperly failed to defer to the trial court or consider the totality of the circumstances surrounding Jones's plea.

HOLDINGS

1. Reconsideration was not warranted because the State merely disagreed with the appellate court's conclusions and did not identify an obvious error or an issue that the court failed to consider when it should have.
2. The court declined to alter its prior holding that the trial court abused its discretion because the record supported four of the nine Fish factors, including lack of prejudice to the State and Jones's reasons for withdrawal and possible innocence.

KEY QUOTATIONS

“An application for reconsideration is not designed for use in instances where a party simply disagrees with the conclusions reached and the logic used by an appellate court.” (¶ 2)

“Based on the above, the state has not called to our attention an obvious error in our decision nor has the state raised an issue for our consideration that was either not at all or was not fully considered by us when it should have been.” (¶ 16)

FACTUAL BACKGROUND

Jones was indicted on 24 counts, most of them felonies, and entered a guilty plea. She sought to withdraw the plea before sentencing, asserting actual innocence, limited knowledge of the State's evidence, and that she had pleaded guilty believing it would benefit her elderly grandmother; her counsel confirmed that she wanted to withdraw the plea the day after entering it. The trial court denied the motion, but the appellate court reversed, finding that relevant Fish factors—including lack of prejudice to the State and Jones's reasons for withdrawal and possible innocence—supported withdrawal. The State then sought reconsideration based partly on alleged co-defendant cooperation agreements and the expiration of co-defendants' prison terms.

PROCEDURAL HISTORY

Jones pleaded guilty after being indicted on 24 counts and later moved before sentencing to withdraw her plea. The trial court denied the motion, and the appellate court previously reversed, concluding that the trial court abused its discretion. The State sought reconsideration, arguing that the appellate court overlooked facts

concerning co-defendant cooperation, Jones's claims of innocence, and the circumstances surrounding her plea. The appellate court denied reconsideration.

DISPOSITION

other

CASES CITED

- State v. Jones, 7th Dist. Columbiana No. 18 CO 0023, 2020-Ohio-3578
- Matthews v. Matthews, 5 Ohio App. 3d 140, 143, 450 N.E.2d 278 (10th Dist. 1981)
- State v. Owens, 112 Ohio App. 3d 334, 336, 678 N.E.2d 956 (11th Dist. 1996)
- State v. Fish, 104 Ohio App. 3d 236, 661 N.E.2d 788 (1st Dist. 1995)
- State v. Scott, 7th Dist. Mahoning No. 08 MA 12, 2008-Ohio-5043, ¶ 13
- State v. Ocel, 7th Dist. Jefferson No. 08 JE 22, 2009-Ohio-2633, ¶¶ 21-22
- State v. Smith, 49 Ohio St. 2d 261, 264, 361 N.E.2d 1324 (1977)
- State v. Cuthbertson, 139 Ohio App. 3d 895, 899, 746 N.E.2d 197 (7th Dist. 2000)

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