

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

United States v. Wetterlin

583 F.2d 346 (7th Cir. 1978) · No. No. 77-1716 · Decided September 27, 1978

SUMMARY

The Seventh Circuit reviewed guilty pleas entered by Melvin C. Wetterlin to conspiracy and making false declarations before a grand jury. The court held that the district court failed to comply with Federal Rule of Criminal Procedure 11 by not adequately establishing Wetterlin's understanding of the conspiracy charge and the factual basis for that plea, requiring the Count I plea to be vacated and allowing him to plead anew. The court found sufficient Rule 11 compliance as to Count X and affirmed the conviction and sentence on that count.

CASE DETAILS

COURT	United States Court of Appeals for the Seventh Circuit
WRITING FOR THE COURT	Harlington Wood, Jr.; Cummings, Circuit Judge; Wood, Circuit Judge; Gus J. Solomon, Senior District Judge, sitting by designation
JURISDICTION	Federal
DECIDED	September 27, 1978
DOCKET	No. 77-1716
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Wetterlin appealed his convictions and sentences following guilty pleas to Counts I and X of an indictment. He argued that the district court failed to comply with Federal Rule of Criminal Procedure 11 in accepting the pleas and sought to have the pleas vacated and to plead anew.
STANDARD OF REVIEW	The court reviewed the plea proceedings for compliance with the mandatory requirements of Federal Rule of Criminal Procedure 11 and examined the record to determine whether the required understanding of the charges and factual basis for the pleas had been established.
PRECEDENTIAL VALUE	published precedential federal appellate opinion
PARTIES	Melvin C. Wetterlin v. United States of America

TOPICS

criminal procedure

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the district court complied with Rule 11(c)(1) by personally informing Wetterlin of and determining that he understood the nature of the conspiracy charge in Count I.
2. Whether the record established a sufficient factual basis for the guilty plea to Count I under Rule 11(f) and the requirement that the factual basis appear on the plea record.
3. Whether the district court complied with Rule 11(c)(1) and Rule 11(f) in accepting the guilty plea to Count X, charging false declarations before a grand jury.

HOLDINGS

1. The district court failed to comply with Rule 11(c)(1) because it did not inform Wetterlin of the nature of the complex conspiracy charge or personally determine on the record that he understood it. The guilty plea to Count I therefore had to be vacated and Wetterlin had to be allowed to plead anew.
2. The district court failed to establish on the record a factual basis for the conspiracy plea. Rule 11 requires the judge to determine that a factual basis exists before accepting the plea, and any evidence relied on must be specifically articulated on the record.
3. The district court complied with Rule 11 as to Count X. The record showed that Wetterlin understood the nature of the false-declaration charge and admitted a sufficient factual basis by acknowledging that his answer to the complete grand-jury question was false and that he knew it was false.

KEY QUOTATIONS

“The charge of “conspiracy” is not a self-explanatory legal term or so simple in meaning that it can be expected or assumed that a lay person understands it.”

“We also believe that in a situation where after the district judge has determined there is a factual basis and has accepted the plea but has not entered judgment there is an attack made by the defendant on the plea, the judge should be able to look to other evidence to resolve the problem.”

“We find that while more detail would perhaps have been desirable, the record does reveal a sufficient factual basis for acceptance of the guilty plea on Count X.”

FACTUAL BACKGROUND

Wetterlin was charged with participating in a complex conspiracy involving the alleged unlawful taking of more than two million dollars from a public works project, including alleged bribery and use of the mails. He pleaded guilty to Count I, the conspiracy count, and Count X, charging knowingly making material false declarations before a grand jury in violation of 18 U.S.C. § 1623. At the plea hearing, the district court did not explain the nature of the conspiracy charge or personally determine that Wetterlin understood it, and the record did not

establish the critical factual elements of his participation in the conspiracy. The record concerning Count X, however, included the grand-jury question, Wetterlin's false answer, and his acknowledgment that he knew the answer was false.

PROCEDURAL HISTORY

Wetterlin entered guilty pleas to Counts I and X on January 31, 1977. After obtaining new counsel, he challenged the plea colloquy and denied his guilt; the district court refused to set aside or permit withdrawal of the pleas and sentenced him to concurrent eighteen-month terms and a fine. The Seventh Circuit vacated the plea and conviction on Count I, affirmed the conviction and sentence on Count X, and required that Wetterlin be allowed to plead anew on Count I.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The plea and conviction on Count I must be vacated, and Wetterlin must be allowed to plead anew on that count. The conviction and sentence on Count X are affirmed.

CASES CITED

- Kercheval v. United States, 274 U.S. 220 (1927)
- United States v. Coronado, 554 F.2d 166 (5th Cir. 1977)
- McCarthy v. United States, 394 U.S. 459 (1969)
- Majko v. United States, 457 F.2d 790 (7th Cir. 1972)
- Irizarry v. United States, 508 F.2d 960 (2d Cir. 1974)
- Seiller v. United States, 544 F.2d 554 (2d Cir. 1975)
- Santobello v. New York, 404 U.S. 257 (1971)
- Carreon v. United States, 578 F.2d 176 (7th Cir. 1978)
- United States v. Bronston, 409 U.S. 352 (1973)
- Blumenfeld v. United States, 306 F.2d 892 (8th Cir. 1962)
- United States v. Fitzgerald, 579 F.2d 1014 (7th Cir. 1978)
- Sierra v. Government of Canal Zone, 546 F.2d 77 (5th Cir. 1977)
- Phillips v. United States, 519 F.2d 483 (6th Cir. 1975)
- United States v. Cody, 438 F.2d 287 (8th Cir. 1971)
- Sassoon v. United States, 561 F.2d 1154 (5th Cir. 1977)
- United States v. White, 483 F.2d 71 (5th Cir. 1973)