

Affirmed and Opinion filed January 20, 2000.



In The

Fourteenth Court of Appeals

NO. 14-98-00835-CR

DONALD S. STRICKLAND, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the County Criminal Court at Law No. 14
Harris County, Texas
Trial Court Cause No. 5238**

O P I N I O N

Donald S. Strickland (Appellant) appeals from the trial court's judgment, which affirmed his conviction in the municipal court for disorderly conduct by offensive gesture.¹ Upon his conviction, Appellant was fined \$175.00 and ordered to pay costs of court.² Following his conviction, Appellant sought to withdraw his plea of *nolo contendere* and enter a plea of not guilty. The municipal court treated his request as a motion for new trial and denied same. Appellant appealed to the county criminal

¹ Appellant appears before this Court as he did in the courts below, *pro se*.

² Article 4.03 of the Code of Criminal Procedure vests this Court with jurisdiction over cases which were appealed to the county criminal court from an inferior court where the fine imposed exceeds \$100. *See* TEX. CODE CRIM. PROC. ANN. art. 4.03 (Vernon Supp. 1999).

court at law. In its order, the county criminal court at law found that “the record on appeal contains no statement of facts or bills of exceptions, and no briefs having been filed assigning error and there appearing no error such as would require review in the interest of justice there is nothing before this Court for review and this cause should be affirmed” We will affirm.

The record before this Court for review is sparse. Initially, however, we note that while Appellant characterizes his plea in the municipal court as a “guilty plea,” the record shows that Appellant pleaded *nolo contendere*. We also observe that Appellant’s desire to withdraw his *nolo contendere* plea came to fruition following the conclusion of his trial and judgment in the municipal court.

A liberal practice prevails in this State concerning the withdrawal of a guilty plea. *See State v. Ellis*, 976 S.W.2d 789, 792 (Tex.App.–Houston [1st Dist.] 1998, no pet.). A defendant may withdraw his guilty plea as a matter of right until judgment has been pronounced or the case has been taken under advisement. *See id.* However, when the defendant decides to withdraw his guilty plea after the trial judge takes the case under advisement or pronounces judgment, the withdrawal of such plea is within the sound discretion of the trial court. *See id.* In this case, Appellant’s desire to withdraw his plea came after judgment was entered, and the court’s decision to deny the request was committed to its discretion. *See id.* We find no evidence in the record showing an abuse of discretion by the trial court in not granting Appellant’s post-trial request to withdraw his plea of *nolo contendere*.

Accordingly, we affirm the judgment of the trial court.

PER CURIAM

Judgment rendered and Opinion filed January 20, 2000.

Panel consists of Chief Justice Murphy, Justices Anderson and Hudson.

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