

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO

Case No. 99CR2588

Courtroom 12

FILED IN DENVER
DISTRICT COURT
ORIGINAL-CRIM

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MOTION TO WITHDRAW GUILTY PLEA

DISTRICT COURT
City & County of Denver, Colo.
Certified to be full, true and correct
copy of the original in my custody.

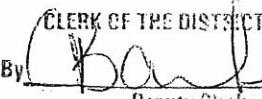


PEOPLE OF THE STATE OF COLORADO, Plaintiff

v.

ERNESTO LEON REYES, Defendant

APR - 1 2008

By 
Deputy Clerk



ERNESTO LEON REYES, by and through counsel, moves to withdraw his guilty plea and, as grounds therefore, states the following:

1. On August 28, 2000, Mr. Reyes entered a guilty plea to an added count 6, Criminal Trespass, a class 5 felony under Sec. 18-4-504, C.R.S. The stipulated sentence was to 3 years unsupervised probation.
2. This plea agreement was reached with the specific purpose of not pleading guilty to an offense that would subject Mr. Reyes to deportation proceedings. Mr. Reyes is a resident alien and the possible consequence of losing his resident alien status was critical to him.
3. Counsel has since learned that felony criminal trespass could subject Mr. Reyes to deportation proceedings pursuant to a Fifth Circuit case that ruled that felony criminal trespass is an aggravated felony for INS purposes.
4. Counsel investigated this issue further by discussing the Fifth Circuit case with Elizabeth Pasont, an attorney with the INS, who stated that because of the Fifth Circuit case, she could argue for one's deportation. She encouraged counsel to plead guilty to criminal trespass of agricultural land under Sec. 18-4-504(b) if the plea has to be to a felony. Her position was that she had nothing to support an argument for deportation since there would be no facts to support the underlying felony under that particular statute.
5. Counsel has discussed this issue with Deputy District Attorney, Carlos Samour and without final approval from Greg Long, he will not allow Mr. Reyes to replead to criminal trespass of agricultural land. Mr. Long has been on vacation and was not available to discuss this matter further.

For the above Mr. Reyes moves this Court for permission to allow him to withdraw his plea pursuant to his rights under Rule 32(d) of the Colorado Rules of Criminal Procedure, the Sixth and Fourteenth Amendments to the United States Constitution and Art. II, Sections 16 and 25 of the Colorado Constitution.

Defendant's Exhibit

A-15

07-cr-462