

STATE OF MINNESOTA
COURT OF APPEALS

OFFICE OF
APPELLATE COURTS

Larry Edwin Craig,

OCT 25 2007

Petitioner-Appellant,

FILED

v.

STATEMENT OF THE CASE
A07-1949

State of Minnesota,

Respondent.

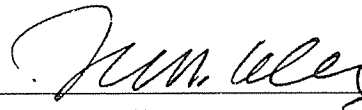
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1. This is an appeal from the Hennepin County District Court, Fourth Judicial District, Division Four (Southdale), the Honorable Charles Porter, presiding.
 2. On October 4, 2007, a final order was entered on Petitioner-Appellant's Motion to Withdraw Guilty Plea. The Notice of Appeal was filed within ten days.
 3. This is a criminal case, the conviction being of misdemeanor disorderly conduct under Minn. Stat. § 609.72 sub 1(3).
 4. The Petitioner-Appellant pled guilty on or about August 1, 2007, to one misdemeanor charge of disorderly conduct under Minn. Stat. § 609.72 sub 1(3), by signing a "Petition to Enter Plea of Guilty – Misdemeanor" and mailing it to the Court, following his arrest in the public men's restroom in the Northstar Crossing of the Lindbergh Terminal at the Minneapolis International Airport. The plea was filed with the Court on August 8, 2007. On September 10, 2007, Petitioner-Appellant filed a Motion to Withdraw Guilty Plea, and oral argument was heard on September 26, 2007. Petitioner-Appellant argued below that the plea was not accurate, voluntary, or intelligent, and that it was not supported by the evidence. Petitioner argued further that there was a procedural defect with respect to the plea, in that there was no indication from the plea that it was approved by a reviewing judge. On September 17, 2007, the American Civil Liberties Union and the American Civil Liberties Union of Minnesota filed a request to proceed as *amici curiae* and a corresponding brief, arguing in their brief that the disorderly conduct statute as applied was constitutionally overbroad. On September 20, 2007, Respondent-Appellee filed a motion to strike the brief of *amici curiae*. On October 4, 2007, the Honorable Charles Porter denied Petitioner-Appellant's Motion to Withdraw Guilty Plea, finding that the plea was accurate, voluntary, and intelligent, and that it was supported by the evidence. In addition, the Court denied the Respondent-Appellee's motion to strike the brief of *amici curiae*.
 5. The issues to be raised include: whether the trial court erred in not allowing Petitioner-Appellant to withdraw his motion to plead guilty. It is the Petitioner-Appellant's position that the plea was not supported by the evidence. Additionally, Petitioner-Appellant will argue that the plea was defective because it was not accepted by the sentencing judge.

Finally, as applied to the facts of this case, the disorderly conduct statute becomes unconstitutional. Accordingly, it is a manifest injustice not to allow the plea to be withdrawn.

6. There are no related appeals.
7. The transcript will not be ordered.
8. Oral argument is requested in St. Paul.
9. Formal briefs will be filed.
10. For the Petitioner-Appellant, Thomas M. Kelly, Kelly & Jacobson, 220 South Sixth Street, Suite 215, Minneapolis, Minnesota 55402, license number 59414; William R. Martin and Kathleen H. Sinclair (to be admitted *pro hac vice*), Sutherland Asbill & Brennan LLP, 1275 Pennsylvania Avenue, NW, Washington, DC 20004, (202) 383-0206, D.C. license numbers 465531 and 501594, respectively.
11. For the Respondent, Lori Swanson, Minnesota Attorney General, 1400 Bremer Tower, 445 Minnesota Street, St. Paul, Minnesota, 55101, (651) 296-3553; Christopher Renz, Prosecuting Attorney for the Metropolitan Airports Commission, Thomsen & Nybeck, P.A., 3300 Edinborough Way, Suite 600, Edina, Minnesota, 55435, (952) 835-7000.

Respectfully submitted,

DATED: October 25, 2007



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