



TO: Members of Troy City Council
FROM: Lori Grigg Bluhm , City Attorney
Christopher J. Forsyth, Assistant City Attorney
DATE: February 12, 2008
SUBJECT: People of the City of Troy v. Megan Nairne

The Court of Appeals has denied Megan Nairne's application for leave to appeal her criminal conviction. The Court opinion is attached for your review. Ms. Nairne was charged with domestic violence involving an altercation with her boyfriend. On December 21, 2006, she pled no contest to the assault charge. Judges sometimes allow no contest pleas in criminal cases where there are potential liability concerns or when there are other reasons why a defendant does not want to give the details of the incident for the public record. In these cases, the judge reviews the police report to make sure that there is a basis to believe that the defendant committed the crime. In all other respects, a no contest plea is treated like a guilty plea. Ms. Nairne was represented by an attorney during these criminal proceedings. In addition, there was also an interpreter present at the time of the plea, since Ms. Nairne is deaf.

Just after she was informed that she may serve jail time for this offense, Ms. Nairne hired a new attorney, who filed a motion asking for permission to withdraw her no contest plea. In this motion, the attorney argued that Ms. Nairne's court appointed attorney did not adequately represent her, and that the no contest plea was not voluntarily and knowingly made. Judge Martone denied her motion to set aside the plea on September 20, 2007. Since there is no appeal as of right, Ms. Nairne's attorney filed an application for leave to appeal, seeking a reversal of Judge Martone's denial of the request to set aside her plea. This application for leave to appeal was filed in the Oakland County Circuit Court. On October 11, 2007, after reviewing arguments from Ms. Nairne's attorney and our response to the application, Judge Colleen O'Brien of the Oakland County Circuit Court denied Defendant's application for leave to appeal.

Ms. Nairne's attorney then filed an application for leave to appeal Judge O'Brien's decision with the Michigan Court of Appeals. We filed our response to this application, arguing that the Court had not erred in refusing to grant the discretionary relief. The Court is not required to allow a defendant to withdraw a plea on the eve of sentencing. On February 5, 2008 the Michigan Court of Appeals issued the attached unanimous decision, again denying her application for leave to appeal. The Court denied the application, finding that there was a "lack of merit in the grounds presented."

It is possible that Ms. Nairne will file another application for leave to appeal the Court of Appeals decision. Absent a decision or an order staying the criminal proceedings from the Michigan Supreme Court, Ms. Nairne will need to appear for sentencing before Judge Martone. Since the case has now been remanded, the 52-4 district court will now set Ms. Nairne's sentencing date, which is expected some time in the near future.

If you have any questions please let us know.

Court of Appeals, State of Michigan

ORDER

People of Troy v Megan Brienna Nairne

Docket No. 281712

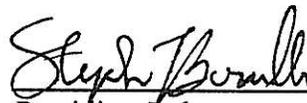
LC No. 2007-008680-AR

Stephen L. Borrello
Presiding Judge

William C. Whitbeck

Alton T. Davis
Judges

The Court orders that the application for leave to appeal is DENIED for lack of merit in the grounds presented.

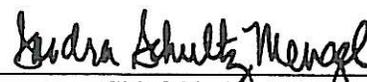

Presiding Judge



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB 5 2008

Date


Chief Clerk