S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
P. O. BOX 20207
NASHVILLE, TENNESSEE 37202

May 16, 2007

Opinion No. 07-72

Applicability of Tenn. R. Crim. P. 32(f) to General Sessions Court

QUESTION

May a defendant who has entered a plea of guilty in a General Sessions Court seek to withdraw his plea under Rule 32(f) of the Tennessee Rules of Criminal Procedure in that court?

OPINION

Yes. A defendant who has entered a guilty plea in General Sessions Court may file a motion to withdraw that plea under the provisions of Tenn. R. Crim. P. 32(f).

ANALYSIS

Rule 1 of the Tennessee Rules of Criminal Procedure establishes that the rules are applicable to a General Sessions Court in specifically enumerated circumstances and "in any other situation where the context clearly indicates applicability." Tenn. R. Crim. P. 1 (b). One of the circumstances enumerated in the rule is the disposition of criminal charges, including a plea of guilty, pursuant to Rule 5. Given this context, it follows that Rule 32(f) likewise applies to the withdrawal of a plea of guilty. *See State v. Thomas M. McNerney*, No. 03C01-9305-CR-00168, 1994 WL 568380 at *2 (Tenn. Crim. App., Oct. 19, 1994)(where the court, without deciding, assumed the applicability of Rule 32(f) to a plea entered in a court with jurisdiction equivalent to that of a General Sessions Court); Tenn. Op. Atty. Gen. No. 98-048 (February 23, 1998)(concluding that guilty plea proceedings held in a General Sessions Court pursuant to Rule 5 are subject to Rule 11's requirement of a verbatim recording).

ROBERT E. COOPER, JR.
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

BENJAMIN A. BALL
Assistant Attorney General

Requested by:

Judge Barry Tatum
General Sessions Judge -- Division 1
Post Office Box 93
105 East High Street
Lebanon, Tennessee 37088-0093