

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

STATE OF OHIO,	:	
Plaintiff-Appellee,	:	
v.	:	No. 109597
LERON COLEMAN,	:	
Defendant-Appellant.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: VACATED AND REMANDED
RELEASED AND JOURNALIZED: August 13, 2020

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-19-640385-A

Appearances:

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Ashley Gilkerson Elias, Assistant Prosecuting Attorney, *for appellee*.

Jonathan N. Garver, *for appellant*.

MARY EILEEN KILBANE, J.:

{¶ 1} Defendant-appellant, Leron Coleman (“Coleman”), appeals from his conviction in Case No. CR-19-640385, after the trial court failed to comply with

Crim.R. 11 before accepting Coleman's guilty plea. Coleman assigns the following error for our review:

Appellant's guilty pleas must be vacated because the trial court erred by failing to adequately inform Appellant, prior to accepting his guilty pleas, of his constitutional rights to confront his accusers and to compulsory process and by failing to determine that Appellant understood that by pleading guilty he was waiving those important constitutional rights.

{¶ 2} Coleman was indicted on six counts on June 11, 2019. He pleaded guilty to amended Counts 1, 4, and 6 on October 21, 2019. The state nolle Counts 2, 3, and 5. On November 20, 2019, the trial court sentenced Coleman to an aggregate term of imprisonment of eight to ten years.

{¶ 3} The record reveals that the trial court did not advise Coleman at the plea hearing of his constitutional right to confront and cross-examine his accusers or his constitutional right to compulsory process and did not determine that Coleman understood he was waiving those constitutional rights by pleading guilty. The state concedes that the trial court did not comply with Crim.R. 11 and agrees that the conviction must be vacated and the case remanded.

{¶ 4} Having reviewed the record and the pertinent law, we vacate Coleman's conviction and remand.

Crim.R. 11

{¶ 5} The issue before us is whether the trial court complied with Crim.R. 11(C)(2). We review a trial court's compliance with Crim.R. 11 de novo. *State v. Cruz*, 8th Dist. Cuyahoga Nos. 108198, 108199, 108731, 2019-Ohio-5239, ¶ 8, citing

State v. Roberts, 8th Dist. Cuyahoga No. 89453, 2010-Ohio-3302, ¶ 19, citing *State v. Stewart*, 51 Ohio St.2d 86, 364 N.E.2d 1163 (1977).

{¶ 6} Crim.R. 11 provides:

In felony cases the court * * * shall not accept a plea of guilty or no contest without first addressing the defendant personally and doing all of the following:

* * *

(c) Informing the defendant and determining that the defendant understands that by the plea the defendant is waiving the rights to jury trial, to confront witnesses against him or her, to have compulsory process for obtaining witnesses in the defendant's favor, and to require the state to prove the defendant's guilt beyond a reasonable doubt at a trial at which the defendant cannot be compelled to testify against himself or herself.

{¶ 7} “A trial court must strictly comply with Crim.R. 11(C)(2)(c) and orally advise a defendant before accepting a felony plea that the plea waives * * * the right to confront one's accusers and * * * the right to compulsory process to obtain witnesses.” *State v. Miller*, Slip Opinion No. 2020-Ohio-1420, ¶ 12, quoting *State v. Veney*, 120 Ohio St.3d 176, 2008-Ohio-5200, 897 N.E.2d 621, at syllabus. “[A] trial court strictly complies with Crim.R. 11(C)(2)(c) when in its plea colloquy with the defendant, it advises the defendant in a manner reasonably intelligible to the defendant that the plea waives the rights enumerated in the rule.” *Miller* at ¶ 19. “When a court fails to strictly comply with this duty, the defendant's plea is invalid.” *Miller* at ¶ 12, quoting *Veney* at syllabus.

{¶ 8} In this case, the record shows that the trial court set forth Coleman's constitutional rights to a jury trial, to require the state to prove guilt beyond a

reasonable doubt, and the privilege against compulsory self-incrimination. However, the trial court did not set forth Coleman's constitutional rights to confront his accusers and to compulsory process to call witnesses. Accordingly, we find that the trial court did not strictly comply with Crim.R. 11 and that Coleman's plea is invalid.

{¶ 9} Therefore, having reviewed the record, this court agrees with the parties that Coleman's conviction must be vacated and the matter remanded.

{¶ 10} The assigned error is well-taken.

{¶ 11} Judgment is vacated and the matter is remanded.

It is ordered that appellant recover from appellee costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

MARY EILEEN KILBANE, JUDGE

EILEEN T. GALLAGHER, A.J., and
EILEEN A. GALLAGHER, J., CONCUR