

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

State of Ohio,	:	
	:	Nos. 08AP-903
Plaintiff-Appellee,	:	(C.P.C. No. 07CR09-6944)
v.	:	08AP-904
	:	(C.P.C. No. 07CR12-9242)
Clifton O. Vinson,	:	
	:	(REGULAR CALENDAR)
Defendant-Appellant.	:	

D E C I S I O N

Rendered on June 30, 2009

Ron O'Brien, Prosecuting Attorney, and *Kimberly Bond*, for
appellee.

Yeura R. Venters, Public Defender, and *David L. Strait*, for
appellant.

APPEALS from the Franklin County Court of Common Pleas

KLATT, J.

{¶1} Defendant-appellant, Clifton O. Vinson, appeals from judgments of the Franklin County Court of Common Pleas finding him guilty of one count of murder with a firearm specification and one count of carrying a concealed weapon. Because the trial court properly accepted appellant's guilty pleas, we affirm.

{¶2} On September 25, 2007, a Franklin County Grand Jury indicted appellant in case No. 07CR09-6944 with one count of carrying a concealed weapon in violation of R.C. 2923.12, one count of improperly handling firearms in a motor vehicle in violation of

R.C. 2923.16, and one count of having a weapon under disability in violation of R.C. 2923.13. Three months later, another Franklin County Grand Jury indicted appellant in case No. 07CR12-9242 with one count of aggravated murder in violation of R.C. 2903.01 and one count of murder in violation of R.C. 2903.02, both with firearm specifications pursuant to R.C. 2941.145 and 2941.146. The indictment also alleged one count of tampering with evidence in violation of R.C. 2921.12 and one count of having a weapon under disability in violation of R.C. 2923.13. Appellant entered not guilty pleas to all counts in both cases.

{¶3} Subsequently, appellant withdrew his not guilty pleas and entered guilty pleas in both cases. In case No. 07CR09-6944, he pled guilty to one count of carrying a concealed weapon. In case No. 07CR12-9242, he pled guilty to one count of murder with a firearm specification. The trial court accepted appellant's guilty pleas, found him guilty, and imposed jointly-recommended sentences in both cases: a 15 years to life sentence, with an additional three years for the firearm specification, in case no. 07CR12-9242, and a concurrent six-month sentence in case no. 07CR09-6944.¹

{¶4} Appellant appeals and assigns the following error:

The trial court erred by entering judgments of conviction based upon guilty pleas that were not knowing, intelligent and voluntary.

{¶5} Crim.R. 11 governs the acceptance of guilty pleas. Crim.R. 11(C)(2) provides:

In felony cases the court may refuse to accept a plea of guilty * * * and shall not accept a plea of guilty * * * without first addressing the defendant personally and doing all of the following:

¹ The trial court dismissed the remaining counts and specifications in both cases.

(a) Determining that the defendant is making the plea voluntarily, with understanding of the nature of the charges and of the maximum penalty involved, and, if applicable, that the defendant is not eligible for probation * * *.

(b) Informing the defendant of and determining that the defendant understands the effect of the plea of guilty or no contest, and that the court, upon acceptance of the plea, may proceed with judgment and sentence.

(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.

{¶6} Substantial compliance with the provisions of Crim.R. 11(C)(2)(a) and (b) is sufficient to establish a valid plea. *State v. Mulhollen* (1997), 119 Ohio App.3d 560, 563. Substantial compliance means that, under the totality of the circumstances, appellant subjectively understood the implications of his plea and the rights he waived. *State v. Carter* (1979), 60 Ohio St.2d 34, 38. Strict compliance with the rule is required, however, regarding appellant's critical constitutional rights referenced in Crim.R.11(C)(2)(c). *State v. Colbert* (1991), 71 Ohio App.3d 734, 737; *State v. Ballard* (1981), 66 Ohio St.2d 473, paragraph one of the syllabus. Appellant need not be advised of those rights in the exact language of Crim.R. 11(C), but he must be informed of them in a reasonably intelligible manner. *Id.* at paragraph two of the syllabus; *State v. Ingram*, 10th Dist. No. 01AP-854, 2002-Ohio-883.

{¶7} A determination of whether a plea was knowing, intelligent, and voluntary is based upon a review of the record. *State v. Spates* (1992), 64 Ohio St.3d 269, 272.

Appellant does not point to anything in the record that would indicate his guilty plea was anything less than a knowing, intelligent, and voluntary choice. A review of the trial court's discussion with appellant at his plea hearing indicates that the trial court complied with Crim.R. 11.

{¶8} At his plea hearing, the trial court did not discuss with appellant the elements of the charges, nor did the trial court specifically ask appellant if he understood the nature of the charges. This court has held, however, that it is not always necessary for a trial court to advise the defendant of the elements of the charge or to ask him if he understands the charge, so long as the totality of the circumstances demonstrate that the defendant understood the charge. *State v. Rainey* (1982), 3 Ohio App.3d 441, paragraph one of the syllabus; *State v. Thomas*, 10th Dist. No. 04AP-866, 2005-Ohio-2389, ¶11; *State v. Staten*, 10th Dist. No. 05AP-201, 2005-Ohio-6753, ¶7.

{¶9} The totality of the circumstances reflected in the record indicate that appellant understood the nature of the charges to which he pled guilty. The entry of guilty plea forms that appellant signed identified the charges and stated that he reviewed the facts and law of his cases with his counsel. *Id.* at ¶8, citing *State v. Jordan* (Mar. 2, 1999), 10th Dist. No. 97APA11-1517. Appellant was present at his plea hearing when the prosecuting attorney recited to the trial court the facts of the cases, including a description of the murder and the victim's name. Appellant did not voice any objection to those facts. Appellant's attorney did not object to the prosecutor's recitation of facts or express any concern regarding his client's understanding of the nature of the charges. See *State v. Eakin*, 5th Dist. No. 01-CA-00087, 2002-Ohio-4713, ¶25. The totality of the circumstances

indicate that appellant understood the nature of the charges when the trial court accepted his guilty pleas. See also *Thomas* at ¶11.

{¶10} Additionally, the trial court informed appellant of the maximum sentences that he could receive and strictly complied with the requirement that appellant understand all of the constitutional rights he was waving by entering his guilty pleas. The trial court clearly informed appellant of the constitutional rights he was waiving by pleading guilty. Appellant stated that he understood the maximum sentences and the constitutional rights he was waiving. When asked if he understood everything in the plea documents that he signed, appellant indicated that he did. Moreover, defense counsel represented to the trial court, after discussing the pleas with appellant, that appellant's decision to enter the guilty pleas was knowing, intelligent, and voluntary. *State v. Carter*, 10th Dist. No. 02AP-294, 2002-Ohio-6967, ¶13.

{¶11} The record clearly indicates that the trial court complied with Crim.R. 11 before it accepted appellant's guilty pleas, and that appellant's pleas were entered knowingly, intelligently, and voluntarily. Accordingly, we overrule appellant's assignment of error and affirm the judgments of the Franklin County Court of Common Pleas.

Judgments affirmed.

TYACK and CONNOR, JJ., concur.
