

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

State of Ohio,	:	
	:	No. 14AP-534
Plaintiff-Appellee,	:	(C.P.C. No. 12CR-4791)
v.	:	
	:	(REGULAR CALENDAR)
Shauntae M. Woods,	:	
	:	
Defendant-Appellant.	:	

D E C I S I O N

Rendered on June 25, 2015

Ron O'Brien, Prosecuting Attorney, and *Michael P. Walton*,
for appellee.

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

APPEAL from the Franklin County Court of Common Pleas

DORRIAN, J.

{¶ 1} Defendant-appellant, Shauntae M. Woods, appeals the June 11, 2014 judgment of the Franklin County Court of Common Pleas convicting him, pursuant to a guilty plea, and imposing sentence. For the reasons that follow, we affirm the judgment of the trial court.

I. Facts and Procedural History

{¶ 2} On September 20, 2012, a Franklin County Grand Jury indicted appellant, charging him with 20 criminal counts. On May 13, 2014, appellant entered a plea of guilty to one count of aggravated robbery in violation of R.C. 2911.01, a felony of the first degree, with a three-year firearm specification; one count of kidnapping in violation of R.C. 2905.01, a felony of the first degree; one count of rape in violation of R.C. 2907.02, a

felony of the first degree, with a firearm specification; and one count of aggravated burglary in violation of R.C. 2911.11, a felony of the first degree, with a firearm specification.

{¶ 3} On June 11, 2014, the trial court held a sentencing hearing and imposed upon appellant the following sentence: a term of four years on the count of aggravated robbery, in addition to a mandatory three-year term for a firearm specification; a term of seven years on the count of kidnapping; a mandatory term of seven years on the count of rape, in addition to a mandatory three-year term for a firearm specification; and a term of five years on the count of aggravated burglary, in addition to a mandatory three-year term for a firearm specification. The trial court ordered the count of kidnapping and the count of rape to be served concurrently to each other but consecutively to the remaining counts and specifications for a total sentence of 25 years. On the same date, the trial court filed a judgment entry reflecting appellant's sentence.

II. Assignment of Error

{¶ 4} Appellant appeals assigning the following error for our review:

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

{¶ 5} Appellant, in his sole assignment of error, asserts that the trial court erred in accepting his guilty plea in violation of Crim.R. 11 and corresponding constitutional protections under the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution because his plea was not knowingly, voluntarily, and intelligently entered.

{¶ 6} " 'When a defendant enters a plea in a criminal case, the plea must be made knowingly, intelligently, and voluntarily. Failure on any of those points renders enforcement of the plea unconstitutional under both the United States Constitution and the Ohio Constitution.' " *State v. Veney*, 120 Ohio St.3d 176, 2008-Ohio-5200, ¶ 7, quoting *State v. Engle*, 74 Ohio St.3d 525, 527 (1996). Crim.R. 11(C) addresses guilty pleas in felony cases and requires a trial judge to determine whether the criminal defendant is fully informed of his or her rights and understands the consequences of his or her pleas. Crim.R. 11(C) provides, in pertinent part:

(2) 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:

(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 or for the imposition of community control sanctions at the sentencing hearing.

(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.

{¶ 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 (1) the right to a jury trial, (2) the right to confront one's accusers, (3) the right to compulsory process to obtain witnesses, (4) the right to require the state to prove guilt beyond a reasonable doubt, and (5) the privilege against compulsory self-incrimination. When a trial court fails to strictly comply with this duty, the defendant's plea is invalid. (Crim.R.11(C)(2)(c) applied.)" *Veney* at syllabus. "A defendant '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.'" *State v. Young*, 10th Dist. No. 10AP-292, 2010-Ohio-5873, ¶ 8, citing *State v. Vinson*, 10th Dist. No. 08AP-903, 2009-Ohio-3240, ¶ 7, citing *State v. Ballard*, 66 Ohio St.2d 473 (1981), paragraph one of the syllabus. Appellant does not allege a violation of Crim.R. 11(C)(2)(c) and indeed states in his brief that the "court advised him of his right to a jury trial, his right to have the State prove his guilt beyond a reasonable doubt, his right to

confront witnesses, his right to compulsory process, and his privilege against self-incrimination." (Appellant's Brief, 2.)

{¶ 8} Although a trial court must strictly comply with regard to federal constitutional rights protected by Crim.R. 11, a trial court need only substantially comply with the nonconstitutional protections required under Crim.R. 11(C)(2)(a) and (b). *Veney* at ¶ 14; *Young* at ¶ 9; *State v. Allen*, 10th Dist. No. 11AP-640, 2012-Ohio-2986, ¶ 20, citing *State v. Williams*, 10th Dist. No. 10AP-1135, 2011-Ohio-6231, ¶ 36, citing *State v. Nero*, 56 Ohio St.3d 106, 108 (1990). Substantial compliance means that, under the totality of the circumstances, the defendant subjectively understands the implications of pleading guilty and the rights he or she is waiving. *Nero* at 108. A defendant who challenges his or her guilty plea on the basis that it was not knowingly, intelligently, and voluntarily made must demonstrate prejudice in order to invalidate the plea. *Veney* at ¶ 15; *Allen* at ¶ 20; *Young* at ¶ 9. "The test for prejudice is "whether the plea would have otherwise been made." ' " *Allen* at ¶ 20, quoting *Williams* at ¶ 36, quoting *Nero* at 108.

{¶ 9} "A determination of whether a plea was knowingly, intelligently, and voluntarily entered is based upon a review of the record." *Young* at ¶ 6, citing *Vinson* at ¶ 7, citing *State v. Spates*, 64 Ohio St.3d 269, 272 (1992). Here, under the totality of the circumstances, we find that the trial court substantially complied with Crim.R. 11(C)(2)(a) and (b).

{¶ 10} Appellant points to his response to the trial court's pronouncement of sentence as evidence that his plea was not knowingly, intelligently, and voluntarily entered. On June 11, 2014, the following dialogue took place after the trial court detailed appellant's sentence on each individual count:

[The Court]: This means you are ordered today to serve 25 years at the Ohio Department of Rehabilitation and Corrections.

[The Defendant]: 25 years? I'm sorry.

[The Court]: Is there some unclarity?

[The Defendant]: Yeah.

[The Court]: I've tried to walk you through exactly what I've ordered you to serve for the underlying felonies and for the firearm specifications. What questions do you have?

[The Defendant] To my knowledge, I was only going to get like 12 or 13 years and come home in 7 years.

[The Court]: Mr. Woods, I indicated to you today that the possible maximum period of incarceration you were facing that I as the judge have the discretion to impose is 53 years in prison. You indicated you understood that.

[The Defendant]: Yes.

[The Court]: Do you understand that?

[The Defendant]: I understand.

(June 11, 2014 Tr. 21-22.) Although appellant expressed confusion following the trial court's pronouncement of the total term of imprisonment at the sentencing hearing, this does not demonstrate that he did not subjectively understand the implications of pleading guilty.

{¶ 11} Indeed, prior to accepting appellant's plea, the trial court questioned appellant regarding his understanding of the consequences of pleading guilty. The trial court reviewed a document signed by appellant, his attorney, and the prosecuting attorney that listed the charges to which he was entering a plea of guilty, the consequences of a guilty plea, and the maximum penalty that could be imposed as a result. Appellant indicated to the trial court that he reviewed the document with his attorneys and understood the information contained therein. Appellant stated that he understood the potential maximum penalties to which he would be subject after both the prosecutor and the trial court orally reviewed such penalties, including a statement by the trial court that appellant could receive consecutive sentences "for a total period of incarceration of up to 53 years." (May 13, 2014 Tr. 9.) Further, appellant indicated that he had not been threatened or forced to plead guilty and that he had received no promises in exchange for his guilty plea. After appellant waived his rights, appellant's attorneys confirmed to the trial court that appellant understood his rights and that his plea was being entered knowingly, intelligently, and voluntarily.

{¶ 12} The trial court clearly informed appellant of the nonconstitutional rights he was waiving by pleading guilty. *See Vinson* at ¶ 10. The trial court repeatedly informed appellant of the maximum sentences that he could receive, including before accepting his plea of guilty and before imposing sentence at the sentencing hearing. After being reminded of the maximum sentences at the sentencing hearing, appellant specifically responded that he did not have any questions about the maximum sentences but only inquired regarding the potential fines. At no time did appellant raise objections or concerns indicating he failed to understand the import of the charges until after the trial court ultimately pronounced sentence.

{¶ 13} Although appellant claims that the 25-year sentence imposed by the trial court was "far longer than what Appellant expected," this alone is insufficient to demonstrate that appellant did not make his pleas knowingly, intelligently, and voluntarily. (Appellant's Brief, 9.) Notably, appellant does not suggest, and the record does not reflect, that the trial court made any promises regarding his sentence upon which he relied in making his plea. Appellant nevertheless asserts that the trial court should have been required to inquire further into the reasons why he expected a lesser sentence or to reject the plea altogether. However, appellant asserts no authority for this proposition and fails to demonstrate prejudice arising out of the trial court's failure to so act after having accepted his guilty plea and imposed sentence. Furthermore, the trial court did ask appellant "[w]hat questions do you have?" and "[d]o you understand that?" (June 11, 2014 Tr. 22.)

{¶ 14} Based upon the trial court's explanation of appellant's maximum penalties, including the terms of mandatory post-release control and registration requirements, combined with the information contained in the guilty plea forms and the trial court's inquiries regarding whether appellant reviewed the guilty plea forms with his attorneys, understood the guilty plea forms, and signed the guilty plea forms, we find that the trial court substantially complied with Crim.R. 11(C)(2)(a) and (b). Therefore, we find that appellant made his guilty pleas knowingly, intelligently, and voluntarily. *See Allen* at ¶ 23; *Vinson* at ¶ 11.

{¶ 15} Accordingly, we overrule appellant's assignment of error.

III. Disposition

{¶ 16} Having overruled appellant's sole assignment of error, we affirm the judgment of the Franklin County Court of Common Pleas.

Judgment affirmed.

LUPER SCHUSTER and BROGAN, JJ., concur.

BROGAN, J., retired, of the Second Appellate District,
assigned to active duty under the authority of the Ohio
Constitution, Article IV, Section 6(C).
