

[Cite as *State v. Taylor*, 2010-Ohio-5607.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94569

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

EDWARD TAYLOR

DEFENDANT-APPELLANT

**JUDGMENT:
AFFIRMED AND REMANDED**

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-502904

BEFORE: Stewart, P.J., Boyle, J., and Sweeney, J.

RELEASED AND JOURNALIZED: November 18, 2010

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MELODY J. STEWART, P.J.:

{¶ 1} Defendant-appellant, Edward Taylor, pleaded guilty to aggravated murder and attempted murder. In exchange for the plea, the state agreed, among other things, to drop the capital murder specifications. The court imposed an agreed life sentence with parole eligibility after 30 years. Taylor now challenges his guilty plea on grounds that his plea should have been taken by a three-judge panel, not an individual judge; that the court failed to inform him of the effect of his guilty plea; and that the court

erred by informing him that he would be subject to postrelease control. We find no error and affirm.

I

{¶ 2} A single judge accepted Taylor's guilty plea. Taylor argues that the capital murder specifications in his indictment required that a three-judge panel preside over the plea proceedings in accordance with R.C. 2945.06 and Crim.R. 11(C)(3). We summarily reject this argument because the state deleted the capital murder specifications before Taylor entered his guilty plea, so R.C. 2945.06 and Crim.R. 11(C)(3) did not apply. See *State ex rel. Henry v. McMonagle*, 87 Ohio St.3d 543, 544-545, 2000-Ohio-477, 721 N.E.2d 1051; *State v. Thomson*, 6th Dist. No. L-05-1213, 2006-Ohio-1224, at ¶45; *State v. White*, 7th Dist. No. 01-JE-3, 2002-Ohio-5226, at ¶20.

II

{¶ 3} Taylor next argues that his guilty plea was invalid because the court failed to inform him of the "effects" of his plea as required by Crim.R. 11(C)(2)(b).

{¶ 4} Crim.R. 11(C)(2)(b) states that the court shall not accept a guilty plea without first ensuring that "the defendant understands the effect of the plea of guilty or no contest." The "effect" of a guilty plea is that the plea constitutes a complete admission of the defendant's guilt. See Crim.R. 11(B)(1).

{¶ 5} The court did not advise Taylor that the effect of his guilty plea would be a complete admission of his guilt, but the error was harmless. The rights contained in Crim.R. 11(C)(2)(b) are nonconstitutional, so Taylor is required to show that he suffered some prejudice from the court's omission. See *State v. Jones*, 116 Ohio St.3d 211, 2007-Ohio-6093, 877 N.E.2d 677, at ¶52. He makes no argument that he was prejudiced by the court's failure to advise him of the effect of his guilty plea, nor is any prejudice apparent on the record. The plea negotiations in this case had been ongoing "for months" and the bargain struck by the parties included an agreed sentence. At no time during the plea proceedings did Taylor assert his innocence or in any other way indicate that he was unaware that his plea would constitute a complete admission of his guilt. *Id.* at ¶54. Hence, the totality of the circumstances show no prejudice from the court's failure to comply with Crim.R. 11(C)(2)(b).

III

{¶ 6} Finally, Taylor argues that his guilty plea is invalid because the court erroneously informed him that he would be subject to postrelease control, even though postrelease control under R.C. 2967.28(B) does not apply to unclassified felonies like aggravated murder.

{¶ 7} Although Taylor is correct in arguing that he is not subject to postrelease control, see *State v. Clark*, 119 Ohio St.3d 239, 2008-Ohio-3748, 893 N.E.2d 462, at ¶36, and that the court violated Crim.R. 11, the error was

nonprejudicial. In *State v. Anderson*, 8th Dist. No. 92576, 2010-Ohio-2085, we considered the same argument on similar facts and found that Anderson failed to show that he suffered any prejudice from misinformation in a plea colloquy relating to postrelease control for a nonclassified felony because there was no indication that he would have pleaded differently had he been informed correctly. *Id.* at ¶29-30. Indeed, it is difficult to imagine any case in which a defendant, wrongfully advised of the possibility of postrelease control, could colorably argue that he would not have pleaded guilty if postrelease control was not a part of the sentence. Offenders tend to object to the imposition of postrelease control; they do not seek it out. Taylor was not only fully advised as to his sentence, he agreed to it. He shows no prejudice from the court's error.

{¶ 8} We do find, however, that the reference to postrelease control should be deleted from the court's sentencing entry, so we remand for the limited purpose of allowing the court to correct the sentencing entry. *Id.* at 29. The assigned errors are overruled.

Judgment affirmed and remanded.

It is ordered that appellee recover of appellant its 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 Cuyahoga County Court of Common Pleas to carry this judgment into execution.

The defendant's conviction having been affirmed, any bail pending appeal is terminated. Case remanded to the trial court for execution of sentence.

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

MELODY J. STEWART, PRESIDING JUDGE

MARY J. BOYLE, J., and
JAMES J. SWEENEY, J., CONCUR