

[Cite as *State v. Adams*, 2018-Ohio-288.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
No. 105759

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**STATE OF OHIO**

PLAINTIFF-APPELLEE

vs.

**TOMMIE E. ADAMS, JR.**

DEFENDANT-APPELLANT

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**JUDGMENT:  
AFFIRMED**

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Criminal Appeal from the  
Cuyahoga County Court of Common Pleas  
Case No. CR-16-605207-A

**BEFORE:** Laster Mays, J., E.A. Gallagher, A.J., and S. Gallagher, J.

**RELEASED AND JOURNALIZED:** January 25, 2018

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ANITA LASTER MAYS, J.:

{¶1} Defendant-appellant Tommie E. Adams, Jr. (“Adams”) appeals his guilty plea and asks this court to vacate his plea. We affirm.

{¶2} Adams pleaded guilty to one count of felonious assault, a second-degree felony, in violation of R.C. 2903.11(A)(2). The trial court sentenced him to seven years imprisonment. Adams filed this appeal arguing that,

I. Appellant’s guilty plea was not knowing, intelligent, and voluntary.

{¶3} A defendant has a constitutional right to understand the nature of his plea and the rights that he will be waiving.

In considering whether a plea was entered knowingly, intelligently and voluntarily, “an appellate court examines the totality of the circumstances through a de novo review of the record.” *State v. Spock*, 8th Dist. Cuyahoga No. 99950, 2014-Ohio-606, ¶ 7; *see also State v. Jackson*, 8th Dist. Cuyahoga No. 99985, 2014-Ohio-706, ¶ 6. Where a defendant enters a guilty plea without asserting innocence, it is presumed that the defendant understands that he or she has admitted his or her guilt. *State v. Griggs*, 103 Ohio St.3d 85, 2004-Ohio-4415, 814 N.E.2d 51, ¶ 19; *State v. Reeves*, 8th Dist. Cuyahoga No. 100560, 2014-Ohio-3497, ¶ 12.

*State v. Alvelo*, 8th Dist. Cuyahoga No. 104422, 2017-Ohio-742, ¶ 21.

{¶4} Crim.R. 11(C)(2) governs the acceptance of guilty pleas in felony cases. It provides:

(2) In felony cases the court may refuse to accept a plea of guilty or a plea of no contest, and shall not accept a plea of guilty or no contest 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.

Crim.R. 11(C)(2).

{¶5} After reviewing the transcript, it is clear that the trial court strictly complied with Crim.R. 11(C)(2) and that Adams understood his plea.

The underlying purpose Crim.R. 11(C) is to convey information to the defendant so that he or she can make a voluntary and intelligent decision regarding whether to plead guilty. *State v. Ballard*, 66 Ohio St.2d 473, 479-480, 423 N.E.2d 115 (1981). In determining whether the trial court has satisfied its duties under Crim.R. 11(C)(2), reviewing courts distinguish between constitutional rights and nonconstitutional rights. *State v. Veney*, 120 Ohio St. 3d 176, 2008-Ohio-5200, 897 N.E.2d 621, ¶ 14-21. The trial court must strictly comply with the requirements of Crim.R. 11(C)(2)(c) relating to the waiver of constitutional rights. *Id.* at ¶ 18. As to the nonconstitutional aspects of Crim.R. 11(C)(2), "substantial compliance" is sufficient. *Id.* at ¶ 14; *State v. Nero*, 56 Ohio St.3d 106, 108, 564 N.E.2d 474 (1990), syllabus. "Substantial compliance means that under the totality of the circumstances the defendant subjectively understands the implications of his plea and the rights he is waiving." *Nero* at ¶ 108.

*State v. McClendon*, 8th Dist. Cuyahoga No. 103202, 2016-Ohio-2630, ¶ 14.

{¶6} The trial court determined that Adams made the plea voluntarily, with understanding of the nature of the charges and of the maximum penalty involved.

COURT: Do you understand the offense to which you are pleading guilty? Mr. Adams, you would be pleading guilty to felonious assault. That's a felony of the second degree. It is possibly punishable from two to eight years in one-year increments. It carries with it a maximum discretionary fine of \$15,000. Do you understand that?

ADAMS: Yes.

COURT: Sir, it does carry with it a disability which would — Take your time.

ADAMS: I'm sorry. I had to understand something I didn't understand.

COURT: It does carry with it a disability which would prohibit you from being able to obtain a valid carrying concealed weapons certification. Do you understand that? That's your Second Amendment.

ADAMS: I understand.

COURT: That means that you can never attain a license to carry a concealed weapon. Do you understand?

ADAMS: Yes.

(Tr. 13-14.)

{¶7} The trial court also informed Adams of postrelease control and how his plea will effect his current parole sanctions.

COURT: If you are sentenced to prison, upon your release from prison the Ohio Parole Board will impose a period of

[p]ostrelease [c]ontrol, Mr. Adams, of three years. There would be no reduction. They may impose conditions and sanctions.

Should you decide to commit an act that causes you to be found in violation of your [p]ostrelease [c]ontrol, you can be remanded to an Ohio penal institution for an additional 50% of your original sentence. Do you understand that?

ADAMS: Yes.

COURT: Are you currently on probation, parole or [p]ostrelease [c]ontrol?

ADAMS: Parole.

COURT: You understand that any previously suspended sentence may now be ordered into execution as a result of this plea? Do you understand that?

ADAMS: Yes, I do.

COURT: Understanding the jeopardy that you've placed yourself in, sir, is it your desire to continue with this plea?

ADAMS: Yes.

(Tr. 15-16.)

{¶8} The trial court informed the defendant of and determined that the defendant understands the effect of the plea of guilty, and that the court, upon acceptance of the plea, may proceed with judgment and sentence. “Crim.R. 11(B)(1) defines the effect of a guilty plea as that term is used in Crim.R. 11(C)(2)(b), as follows: With reference to the offense or offenses to which the plea is entered: (1) The plea of guilty is a complete admission of the defendant’s guilt.” *State v. Thomas*, 8th Dist. Cuyahoga No. 36604, 1977 Ohio App. LEXIS 8752 (Dec. 22, 1977).

COURT: The [c]ourt is going to review with you what has been spread upon the record, and if there's something different I want you to indicate it to me. Okay?

What has been spread upon the record by the county prosecutor's office is that, Mr. Adams, that you would plead guilty to felonious assault, a felony of the second degree, and that all other counts would be dismissed. Is there anything else?

ADAMS: No.

COURT: Do you understand that legally the [c]ourt could proceed to sentencing after your plea today?

ADAMS: Yes.

COURT: How do you plead, Mr. Adams, guilty or not guilty?

ADAMS: Guilty.

COURT: And are you, in fact, guilty, sir?

ADAMS: Yes.

(Tr. 17-19.)

{¶19} The trial court informed Adams and determined that he understood that by the plea he is waiving the rights to jury trial, to confront witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to require the state to prove his guilt beyond a reasonable doubt at a trial at which he cannot be compelled to testify against himself.

COURT: Do you understand that upon entering your pleas of guilt you are waiving or giving up certain constitutional and trial rights that you might otherwise have had we proceeded to trial?

ADAMS: Yes, ma'am.

COURT: I am going to review each right with you. Let me know if you understand each right by saying yes out loud.

Do you understand you have a right to a trial by jury or by a judge?

ADAMS: Yes.

COURT: To subpoena witnesses to appear and testify on your own behalf?

ADAMS: Yes.

COURT: To have your lawyer cross-examine each and every witness that would be called by the government?

ADAMS: Yes, ma'am.

COURT: To have the government prove your guilt by evidence beyond a reasonable doubt?

ADAMS: Yes.

COURT: To remain silent and not testify and no one could comment on the fact that you did not testify at trial?

ADAMS: Yes, ma'am.

(Tr. 11-13.)

{¶10} The trial court asked Adams's attorney if it complied with Rule 11.

COURT: Let the record reflect the [c]ourt finds the [d]efendants have knowingly and voluntarily entered their pleas with a full understanding of their constitutional and trial rights.

Counselors, are you satisfied that Rule 11 has been complied with?

ATTORNEY: I am, your Honor.

COURT:           Therefore, the [c]ourt will accept your pleas of guilt.

(Tr. 19.)

Therefore, we find that the trial court complied with all the statutory requirements of Crim.R. 11(C)(2), and that Adams's plea was made knowingly, intelligently, and voluntarily, as there is no evidence from the record that would contradict that fact.

{¶11} Adams's sole assignment of error is overruled.

{¶12} Judgment is affirmed.

It is ordered that the appellee recover from appellant 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. The defendant's conviction having been affirmed, any bail pending appeal is terminated.

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

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ANITA LASTER MAYS, JUDGE

EILEEN A. GALLAGHER, A.J., and  
SEAN C. GALLAGHER, J., CONCUR