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SLIP OPINION NO. 2026-OHIO-3281

THE STATE OF OHIO, APPELLEE, v. FONTANEZ, APPELLANT.

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State v. Fontanez*, Slip Opinion No. 2026-Ohio-3281.]

Criminal law—Crim.R. 11(C)(2)—Absent a defendant’s assertion of actual innocence, a court may presume that the defendant understands the common definition of a guilty plea—Trial court’s failure to explicitly inform defendant that his guilty plea was a complete admission of guilt did not constitute a “complete failure” to comply with Crim.R. 11—State v. Griggs remains good law and fits within the framework clarified in State v. Dangler—Court of appeals’ judgment affirmed.

(No. 2024-1464—Submitted October 29, 2025—Decided August 26, 2026.)

CERTIFIED by the Court of Appeals for Cuyahoga County,

No. 113105, 2024-Ohio-4579.

FISCHER, J., authored the opinion of the court, which KENNEDY, C.J., and DEWINE, DETERS, HAWKINS, and SHANAHAN, JJ., joined. BRUNNER, J., dissented, with an opinion.

FISCHER, J.

{¶ 1} Following a year-long crime spree, appellant, Albert Fontanez, pleaded guilty to several serious offenses, resolving five separate criminal cases against him. Fontanez argues, however, that because the trial court did not explicitly inform him during his plea colloquy that his guilty plea constituted a complete admission of guilt, the court failed to comply with Crim.R. 11 and his plea was therefore invalid. On appeal, the Eighth District Court of Appeals panel, and later an en banc panel, rejected his argument and affirmed his convictions.

{¶ 2} The Eighth District certified a conflict to this court, finding that its decision conflicted with *State v. Fox*, 2024-Ohio-349 (5th Dist.), and *State v. Dumas*, 2024-Ohio-2731 (2d. Dist.). We accepted the certified conflict to resolve whether a plea is rendered invalid when a trial court fails to inform a defendant that a guilty plea is a complete admission of guilt.

{¶ 3} The evolution of our precedent on this issue is not entirely linear, and lower courts may be excused for reaching different answers to this question. But at base, the term “guilty” is a commonly understood term that implies a complete admission of guilt. Absent a defendant’s assertion of actual innocence, a court may presume that a defendant understands that a guilty plea is a complete admission of guilt, and a plea is not rendered invalid by the court’s omission of this common definition alone.

{¶ 4} We affirm the Eighth District Court of Appeals’ judgment below.

I. FACTS AND PROCEDURAL BACKGROUND

{¶ 5} Albert Fontanez was indicted on several counts in five separate cases before the Cuyahoga County Court of Common Pleas, stemming from incidents

that occurred from June 2021 through July 2022. He was first indicted in case No. CR-21-664789 on two counts of felonious assault (R.C. 2903.11(A)(1) and (2)). The State alleged that Fontanez approached his neighbor and long-time adversary, J.S., while J.S. was working on his car. The two men exchanged words and eventually threats. Fontanez then got into his car, hit J.S. with it, and then got back out of the car to punch J.S. several times.

{¶ 6} Fontanez was next indicted in case No. CR-22-669649 on two counts of felonious assault (R.C. 2903.11(A)(1) and (2)), two counts of aggravated robbery (R.C. 2911.01(A)(1) and (3)), and three counts of robbery (R.C. 2911.02(A)(1), (2), and (3)). The State alleged that Fontanez drove into a gas-station parking lot and used his car to block in another car that had a man sitting inside. Police obtained a video showing Fontanez attacking the man's car with a baseball bat before pulling him out of the car, beating him with the bat, and taking his car keys.

{¶ 7} Fontanez was next indicted in case No. CR-22-670606 on one count of felonious assault (R.C. 2903.11(A)(2)) with firearm specifications (R.C. 2941.141(A) and R.C. 2941.145(A)), two counts of having weapons under disability (R.C. 2923.13(A)(1) and (2)), one count of improperly handling firearms in a motor vehicle (R.C. 2923.16(B)), and one count of criminal damaging or endangering (R.C. 2909.06(A)(1)). The State alleged that Fontanez and an accomplice approached a man who was in a car and with whom the accomplice had had a disagreement about the sale of some car rims. Fontanez and his accomplice were wielding a handgun and a baseball bat. They then began shooting at the man's car and smashing its windows before fleeing the scene.

{¶ 8} The next case was case No. CR-22-672399. Fontanez was indicted on one count of theft (R.C. 2913.02(A)(1)) and one count of assault (R.C. 2903.13(A)). The State alleged that Fontanez and several other men attacked a man and his girlfriend at an impound lot, stole the girlfriend's phone, and drove away.

{¶ 9} Finally, Fontanez was indicted in case No. CR-22-674611 on one count of failure to comply (R.C. 2921.331(B)) and one count of receiving stolen property (R.C. 2913.51(A)). According to the State, this case began when officers discovered that the license plate on a car Fontanez was driving was registered to a different make and color of car. The State alleged that when the officers activated their overhead emergency lights to pull over Fontanez, he led them on a high-speed chase onto Interstate 71, reaching a speed of 120 miles per hour. The chase was eventually called off due to the danger to other motorists. Police later found the car and discovered that it had been reported stolen in Cleveland.

{¶ 10} In response to Fontanez’s request under Crim.R. 16(B)(1), the State provided him with a bill of particulars for each case, outlining the actions of which he was accused. The State offered Fontanez a plea agreement that would resolve all five cases against him. In exchange for Fontanez’s guilty plea, the State would downgrade some of the most serious offenses and drop several of the lesser offenses. In total, the State’s plea offer reduced the number of charges Fontanez faced in half, from 18 to 9.

{¶ 11} The court held a final pretrial on June 28, 2023, about a month before Fontanez’s trial was set to begin. At this pretrial, the court explained the charges against Fontanez, the potential sentences for those charges, and the State’s plea offer. Although Fontanez initially did not intend to accept the plea agreement, he decided to accept it after conferring with his attorney. Before accepting Fontanez’s plea, the court asked if he had had sufficient time to confer with his attorney and if he understood the charges against him and his right to trial for those charges. Fontanez responded affirmatively.

{¶ 12} During the plea colloquy, the court explained to Fontanez that if he pleaded guilty, he would not be sentenced that day but that a sentencing hearing would be scheduled for a later date. The court also told Fontanez that at the sentencing hearing, anyone named as a victim would have the opportunity to speak

if they wished. The court then read the charges in the amended counts that the State was keeping under the plea agreement, listing each element of each offense, identifying the victims involved, and providing other details related to the offenses. Fontanez pleaded guilty in response to each charge.

{¶ 13} The court held a sentencing hearing on July 20, 2023. The State filed a sentencing memorandum before the hearing. In this memorandum, the State notified the court that Fontanez had been indicted in two additional cases that were not part of the plea agreement that the parties had reached.

{¶ 14} At the sentencing hearing, the court again reviewed the plea agreement and the amended charges against Fontanez, along with the accompanying potential sentences. The court acknowledged the two new pending cases but explained to Fontanez that he was presumed innocent of the charges in those cases and that they did not factor into the court's sentencing decision for the cases in which he pleaded guilty.

{¶ 15} However, the sentencing hearing began to unravel when the victims of Fontanez's offenses began to testify. J.S. was identified by the State as the victim in the first case brought against Fontanez, CR-21-664789. Almost immediately after J.S. began testifying, Fontanez made his disagreement with J.S.'s testimony known. The court had to address Fontanez's courtroom behavior and ask him to stop talking. The judge said, "I'm directing you to pay attention and show respect to the people who were victimized by your actions. Sit up straight in your chair, sir, and pay attention to what's going on." J.S. continued, explaining how on the day of the incident, Fontanez and three other accomplices attacked him. Fontanez interrupted: "The video says otherwise." The court again admonished Fontanez to allow J.S. to testify. J.S. finished his testimony uninterrupted. However, at the conclusion of J.S.'s testimony, the State made a note of Fontanez's antics for the record. "I would like the record to note that as [J.S.] was describing his injuries,

his issues with his kidney, the tire marks, the Defendant is sitting over there smiling.”

{¶ 16} The next victim testimony came from D.P. from the fourth case brought against Fontanez, CR-22-672399. D.P. described how Fontanez and another man approached him and his girlfriend, G.T., flashed a gun, and then jumped them before stealing G.T.’s phone. Fontanez did not interrupt that testimony.

{¶ 17} No other victims testified at the hearing. After both the State’s and Fontanez’s counsel made statements, the court allowed Fontanez to make a statement on his behalf. He began: “I just want to apologize for my actions and ask for forgiveness and for you to take pity on me.” The court asked Fontanez what he had to say about the offenses, to which he responded, “I don’t agree to all the circumstances and how they happened exactly how the victims say they happened, but I’m willing to take fault for my part in it 100 percent.” After some back and forth between the court and Fontanez, he asked: “What makes what [the victims] say factual?” The court explained that by pleading guilty, Fontanez had admitted to the facts alleged. Fontanez then asked to retract his guilty plea.

{¶ 18} Following a brief recess, the court held an impromptu hearing on what it construed as an untimely oral motion to withdraw Fontanez’s plea. When the court asked why Fontanez wished to withdraw his plea, his counsel explained that he would not have entered his guilty plea had he known about the other two pending cases. However, a brief dialogue established that Fontanez and his counsel were aware of the pending cases before the sentencing hearing that day. The court then asked if there was any basis for the untimely withdrawal of the plea. Fontanez’s counsel responded: “Other than a change of heart, your Honor, no.” The court denied Fontanez’s motion and proceeded to sentencing. The court sentenced Fontanez on each offense, totaling a term of ten years.

{¶ 19} Fontanez appealed his convictions to the Eighth District Court of Appeals. Relevant to the appeal before this court, he argued that the trial court had erred in accepting his guilty plea without informing him of the effect of his plea. *State v. Fontanez*, 2024-Ohio-1590, ¶ 1 (8th Dist.). Considering the commonly understood definition of the term “guilty” and the colloquy between Fontanez and the trial court at the pretrial and sentencing hearings, the Eighth District concluded that Fontanez understood that his guilty plea was a complete admission of guilt. *Id.* at ¶ 15-16, 19. Because Fontanez understood the effects of his plea, the Eighth District held that the trial court adequately complied with the Crim.R. 11 requirements to inform a defendant of the effect of a guilty plea. *Id.* at ¶ 19.

{¶ 20} The Eighth District recognized that its opinion conflicted with its prior decisions and sua sponte reviewed its decision en banc. 2024-Ohio-4579, ¶ 1-3 (8th Dist.). A divided en banc court again affirmed Fontanez’s convictions, holding that “where a trial court does not explicitly state that a guilty plea constitutes a complete admission of guilt during a Crim.R. 11 colloquy but the court otherwise complies with the rule and the defendant does not assert actual innocence, we may presume that the defendant understood that his guilty plea was a complete admission of guilt.” *Id.* at ¶ 20.

{¶ 21} Having affirmed the original panel’s decision, the Eighth District certified a conflict, finding that its decision conflicted with *Fox*, 2024-Ohio-349 (5th Dist.), and *Dumas*, 2024-Ohio-2731 (2d Dist.). We agreed that a conflict exists and accepted the appeal. We ordered the parties to brief the following issue:

“Does a trial court completely fail to comply with Crim.R. 11(C)(2) so as to render a guilty plea invalid when it fails to explicitly state that [a] guilty plea constitutes a complete admission of guilt[] where the trial court otherwise complies with the requirements of Crim.R.

11(C)(2), the admission of guilt is obvious from the context of the plea colloquy, and the defendant does not assert actual innocence?”

2025-Ohio-156, quoting the court of appeals’ entry certifying the conflict. We hold that it does not and affirm the Eighth District’s judgment.

II. ANALYSIS

A. **Crim. R. 11 ensures a defendant’s plea is knowing, intelligent, and voluntary**

{¶ 22} Given the seriousness of a criminal defendant’s choice to enter a guilty plea, “[d]ue process requires that a defendant’s plea be made knowingly, intelligently, and voluntarily; otherwise, the defendant’s plea is invalid.” *State v. Brinkman*, 2021-Ohio-2473, ¶ 10, quoting *State v. Bishop*, 2018-Ohio-5132, ¶ 10 (lead opinion), citing *State v. Clark*, 2008-Ohio-3748, ¶ 25. To ensure that pleas are constitutionally sound, Crim.R. 11(C) places certain requirements on a court before it can accept a guilty plea in felony cases. These requirements include confirming that the defendant understands the nature of the charges and the maximum penalty, informing the defendant that by pleading guilty, the defendant waives certain constitutional rights, and “[i]nforming the defendant of and determining that the defendant understands the effect of the plea of guilty . . . ,” Crim.R. 11(C)(2)(b).

{¶ 23} We have stressed that “[l]iteral compliance with Crim.R. 11, in all respects, remains preferable to inexact plea hearing recitations,” *State v. Griggs*, 2004-Ohio-4415, ¶ 19, fn. 2, citing *State v. Nero*, 56 Ohio St.3d. 106, 108 (1990); see, e.g., *Clark* at ¶ 29 (“We urge trial courts to avoid committing error and to literally comply with Crim.R. 11.”). Again, we take a moment to emphasize that exact compliance with Crim.R. 11 is the best practice to ensure that pleas are entered into knowingly, intelligently, and voluntarily. However, inexact compliance does not always render a plea *not* knowing, intelligent, and voluntary.

{¶ 24} Although a court must provide the defendant with the information set forth in Crim.R. 11, we have not required verbatim recitation of the colloquy. *See Nero* at 108, citing *State v. Stewart*, 51 Ohio St.2d 86, 92-93 (1977); *see also State v. Veney*, 2008-Ohio-5200, ¶ 29. Rather, our focus has been “on whether the dialogue between the court and the defendant demonstrates that the defendant understood the consequences of his plea.” *State v. Dangler*, 2020-Ohio-2765, ¶ 12, citing *Veney* at ¶ 15-16, *Clark* at ¶ 26, and *State v. Miller*, 2020-Ohio-1420, ¶ 19. A defendant wishing to vacate his or her plea must also typically show prejudice by the trial court’s omission of any part of the Crim.R. 11 colloquy. *See Nero* at 108. The test for whether a defendant has suffered prejudice by an omission in the plea colloquy has long been, and remains, “whether the plea would have otherwise been made.” *Id.* at 108, citing *Stewart* at 93; *see also State v. Gowdy*, 2025-Ohio-5575, ¶ 20.

B. We have recognized two exceptions to a defendant’s usual requirement to show prejudice by a court’s noncompliance with Crim.R. 11

{¶ 25} We have, however, recognized two exceptions when a trial court’s failure to comply with Crim.R. 11 is so consequential that prejudice is presumed and a defendant is relieved of the burden to show prejudice. The first is when a trial court fails to inform the defendant of the constitutional guarantees he or she is waiving by pleading guilty. *See Dangler* at ¶ 14, citing *Clark*, 2008-Ohio-3748 at ¶ 31, and *Veney* at syllabus. These include the privilege against compulsory self-incrimination, the right to a jury trial, and the right to confront an accuser, among others. *See id.*, citing *Veney* at ¶ 19. The right at issue in this case, to be informed that a guilty plea is a complete admission of one’s guilt, does not implicate any constitutional guarantee. Thus, this first exception does not apply.

{¶ 26} The second exception is when a trial court’s plea colloquy with a defendant demonstrates “[a] complete failure to comply with [Crim.R. 11].” *State v. Sarkozy*, 2008-Ohio-509, ¶ 22. *Sarkozy* was our first case to recognize the

complete-failure exception. In *Sarkozy*, the trial court failed to inform the defendant that his pleading guilty to certain offenses carried a lengthy mandatory period of postrelease control. *Id.* at ¶ 4, 11. Crim.R. 11(C)(2)(a) requires a court to ensure that a defendant understands “the nature of the charges and of the maximum penalty involved” by pleading guilty. He “could not have subjectively understood that postrelease control was part of his sentence when the trial court failed to advise him of postrelease control and its ramifications during the plea colloquy,” and his plea was therefore not made knowingly and intelligently. *Id.* at ¶ 25-26.

{¶ 27} *Sarkozy* did not establish a bright-line rule for what constitutes a complete failure to comply with Crim.R. 11, but the holding was a logical extension of our precedent regarding Crim.R. 11 compliance. Previously, reviewing courts would conduct a multi-tiered analysis whenever a trial court deviated from a strict recitation of Crim.R. 11 that asked whether the trial court had “substantially” complied with the rule and, if not, whether it had “partially” complied with the rule or “failed” to comply with the rule. *See Clark*, 2008-Ohio-3748, at ¶ 32. If the court had “substantially” complied with the requirements, the plea was upheld as valid, and vacating the plea was not required. *Nero*, 56 Ohio St.3d 106, at 108.

{¶ 28} Substantial compliance involved a subjective inquiry that considered whether “under the totality of the circumstances the defendant subjectively underst[ood] the implications of his plea and the rights he [wa]s waiving.” *Id.*, citing *Stewart*, 51 Ohio St.2d at 92-93, and *State v. Carter*, 60 Ohio St.2d 34, 38 (1979), *cert. denied*, 445 U.S. 953 (1980). A defendant was also required to show prejudice to vacate a plea. *Id.*

{¶ 29} If a court only partially complied with Crim.R. 11, then reviewing courts did not need to reassess whether a defendant subjectively understood the implications of his or her plea. A showing of prejudice was enough to vacate the plea. *Clark* at ¶ 32, citing *Nero* at 108 and *Stewart* at 93.

{¶ 30} While this line of cases rightly focused on prejudice with an eye towards protecting the defendant’s due-process rights, it was not a model of clarity, and in 2020, we simplified the test that our precedent had established with a three-part inquiry:

Properly understood, the questions to be answered are simply: (1) has the trial court complied with the relevant provision of the rule? (2) if the court has not complied fully with the rule, is the purported failure of a type that excuses a defendant from the burden of demonstrating prejudice? and (3) if a showing of prejudice is required, has the defendant met that burden?

Dangler, 2020-Ohio-2765, at ¶ 17. This test simplified the analysis while preserving the two exceptions previously discussed that excuse a defendant’s burden to show prejudice and still allowing a court to vacate a plea when prejudice is shown, absent either exception.

{¶ 31} There is no dispute here that the trial court failed to explicitly inform Fontanez that his guilty plea was “a complete admission of [his] guilt.” And the issue of whether Fontanez was prejudiced by this omission was not the basis of the Eighth District’s en banc decision below and is not currently before the court. Thus, the only part of the *Dangler* inquiry at issue here is whether the trial court’s omission is the type that excuses Fontanez’s requirement that he show prejudice.

{¶ 32} As stated above, the right to be informed that a guilty plea constitutes a complete admission of guilt is not a constitutional right. Thus, only the second exception is at issue: whether the trial court’s omission was a “complete failure to comply” with the Crim.R. 11 plea requirements. It was not.

C. Failure to inform a defendant that a guilty plea is a complete admission of guilt does not constitute a complete failure to comply with Crim.R. 11

{¶ 33} We have addressed the issue of a trial court’s compliance with Crim.R. 11 when the court fails to inform a defendant that a guilty plea is a complete admission of guilt under the previously described substantial-compliance analysis. *See Griggs*, 2004-Ohio-4415, at ¶ 19. In *Griggs*, a defendant charged with aggravated murder, aggravated burglary, and felonious assault pleaded guilty in exchange for the State’s reducing the first two offenses to voluntary manslaughter and burglary and nolling the felonious-assault charge. *Id.* at ¶ 3. However, during the plea hearing, the trial court did not inform the defendant that his guilty plea was a complete admission of guilt. *Id.* at ¶ 4. We held that “a defendant who has entered a guilty plea without asserting actual innocence is presumed to understand that he has completely admitted his guilt. In such circumstances, a court’s failure to inform the defendant of the effect of his guilty plea as required by Crim.R. 11 is presumed not to be prejudicial.” *Id.* at ¶ 19.

{¶ 34} *Griggs* predated both the “complete failure” exception recognized in *Sarkozy*, 2008-Ohio-509, and the three-part inquiry set out in *Dangler*. Thus, we must resolve how these cases can coexist, if at all. Indeed, one of the questions the Eighth District considered in its en banc decision was “[w]hether the Ohio Supreme Court’s decision in *State v. Griggs*, 2004-Ohio-4415, remains good law following the Court’s decision in *State v. Dangler*, 2022-Ohio-2765.” 2024-Ohio-4579 at ¶ 5 (8th Dist.).

{¶ 35} Although *Dangler* simplified the Crim.R. 11 compliance analysis, *Dangler* is not inconsistent with *Griggs*, and the Eighth District correctly concluded that *Griggs* remains good law. Our cases that predate *Dangler* and applied the substantial-compliance analysis, like *Griggs*, remain instructive. If a court was able to conduct a subjective inquiry into a defendant’s understanding to determine that the court had “substantially complied” with Crim.R. 11, then it stands to reason that

the court could not have simultaneously “completely failed” to comply with the same requirements. The complete-failure exception is narrow and applies when the trial court’s deficiency is so significant that the defendant realistically could not have understood the consequences of the plea, so prejudice must be presumed.

{¶ 36} Recall that the issue with the trial court’s deficiency in *Sarkozy* was that “[the defendant] could not have subjectively understood that postrelease control was part of his sentence when the trial court failed to advise him of postrelease control and its ramifications during the plea colloquy.” *Sarkozy* at ¶ 25. If a defendant *could* have subjectively understood the consequences of a plea, the trial court has not completely failed to comply with Crim.R. 11. If the defendant could have understood the consequences but did not subjectively understand them, that would bear on the prejudice analysis, which is the third prong under *Dangler*.

{¶ 37} Many Ohio appellate courts routinely continue to follow *Griggs* and analyze its holding post-*Dangler*. See, e.g., *State v. Terry*, 2026-Ohio-589 (6th Dist.); *State v. Tomlin*, 2026-Ohio-439 (5th Dist.); *State v. Qiu*, 2025-Ohio-5485 (7th Dist.); *State v. Hagens*, 2025-Ohio-4989 (12th Dist.); *State v. Chambers*, 2023-Ohio-1107 (3d Dist.); *State v. Hughes*, 2021-Ohio-4534 (10th Dist.). Although this application has not been unanimous, hence the certified conflict, it is a testament to the workability of applying *Griggs* to the *Dangler* framework that a majority of appellate courts have had little issue doing so.

{¶ 38} Having established that *Griggs* remains good law, we turn to the current conflict question between the Eighth District and the Fifth and Second Districts: whether a trial court completely fails to comply with Crim.R. 11(C)(2) when the court fails to explicitly state that a defendant’s guilty plea constitutes a complete admission of guilt. We agree with the Eighth District and with our previous decision in *Griggs*—it does not.

{¶ 39} The term “guilty” is commonly used and understood to mean that someone has committed an offense or a crime. A survey of dictionaries reflects

this understanding: “having committed a breach of conduct: justly chargeable with or responsible for a delinquency, crime, or sin.” *Webster’s Third New International Dictionary* (2002); *see also American Heritage Dictionary* (5th Ed. 2012) (“Responsible for a crime or wrongdoing”); *Black’s Law Dictionary* (12th Ed. 2024) (“Having committed a crime; responsible for a crime”). Considering this common definition, a criminal defendant who decides to plead guilty is properly understood as confessing his or her culpability.

{¶ 40} A decision to plead guilty is also a consent to judgment without a trial or the rights that would accompany a trial. Typically, the admission of the acts committed and the waiver of the trial rights go together. As explained in *Griggs*, a guilty plea “usually subsumes both elements, and justifiably so, even though there is no separate, express admission by the defendant that he committed the particular acts claimed to constitute the crime charged in the indictment.” *Griggs*, 2004-Ohio-4415, at ¶ 13, quoting *North Carolina v. Alford*, 400 U.S. 25, 32 (1970); *see also State v. Stumpf*, 32 Ohio St. 95, 104 (1987) (“A plea of guilty is a complete admission of guilt. By entering his guilty plea . . . , appellant admitted that *he* murdered [the victim] for the purpose of avoiding detection, apprehension, trial or punishment for *his* crimes of attempted aggravated murder and aggravated robbery.” [Emphasis in original.]). This is why an “*Alford* plea,” in which a defendant pleads guilty but still maintains actual innocence of the charges, *Griggs* at ¶ 13, is the exception to the norm that a guilty plea is a complete admission of guilt in addition to a waiver of the defendant’s trial rights.

{¶ 41} A guilty plea’s being a complete admission of guilt accords with the commonly understood meaning of the term. Given the commonly understood meaning of the term “guilty,” a court may presume that a defendant understands that a guilty plea is a complete admission of guilt when the defendant has decided to plead guilty after being presented with the charges.

{¶ 42} This commonly understood meaning is further evidenced elsewhere in Crim.R. 11. “The plea of guilty is a complete admission of the defendant’s *guilt*.” (Emphasis added.) Crim.R. 11(B)(1). Because Crim.R. 11(B)(1) uses the word “guilt” to define “plea of guilty,” it is unclear what the recitation of this provision in a colloquy would provide if the defendant did not have some prerequisite understanding of those terms. To hold that a trial court completely fails to comply with Crim.R. 11 when it fails to state something that the rule itself presumes a defendant would understand sacrifices substance to pure form.

{¶ 43} The same, however, cannot be said of terms that are less common in ordinary parlance, like a plea of “no contest,” which carries a very specific set of implications that are not commonly understood. The effects of that plea are helpfully spelled out in Crim.R. 11(B)(2), which does not rely on the term to define itself but again assumes that a defendant understands the definition of “guilt”: “The plea of no contest is not an admission of defendant’s guilt, but is an admission of the truth of the facts alleged in the indictment, information, or complaint, and the plea or admission shall not be used against the defendant in any subsequent civil or criminal proceeding.” Crim.R. 11(B)(2). A defendant would not be presumed to understand the full effects of a plea of no contest without that explanation being provided to him.

{¶ 44} It is of no consequence that a defendant may not agree precisely with how the State or a victim recounts the offenses charged. It is natural that a victim and the perpetrator of a crime may have different recollections or characterizations of exactly how a crime happened, even if they ultimately agree that it did happen. A guilty plea is an admission to the operative facts that form the basis of the crime charged. *See Craig v. State*, 49 Ohio St. 415, 418 (1892) (“a plea of guilty . . . has been regarded as an admission of every material fact well pleaded in the indictment, dispensing with the necessity of proving them, and authorizing the court to proceed to judgment”). A guilty plea is not a complete agreement with any narration of the

event. But a defendant's disagreement with how the offense is characterized outside of the indictment does not overcome the presumption that the defendant understands that pleading guilty is a complete admission of guilt.

{¶ 45} Importantly, though, the presumption that a defendant understands that a guilty plea is a complete admission of guilt is not insurmountable. An assertion of actual innocence so fundamentally contradicts the common understanding of a guilty plea that a court may not presume the defendant understands that a guilty plea is a complete admission of guilt when the defendant asserts actual innocence. *See Griggs*, 2004-Ohio-4415, at syllabus (“A defendant who has entered a guilty plea without asserting actual innocence is presumed to understand that he has completely admitted his guilt. In such circumstances, a court’s failure to inform the defendant of the effect of his guilty plea as required by Crim.R. 11 is presumed not to be prejudicial.”). To the extent that a defendant fails to assert actual innocence but does not fully understand that a guilty plea was a complete admission of guilt, the defendant may still challenge the validity of the plea on appeal. But again, that would fall under the third part of the *Dangler* inquiry: whether the defendant has shown that he was prejudiced by the court’s noncompliance with Crim.R. 11.

{¶ 46} In this case, the trial court did not completely fail to comply with the Crim.R. 11 requirements by not explicitly informing Fontanez that his guilty plea was a complete admission of guilt. Fontanez did not assert actual innocence at any point in the plea colloquy. To the contrary, the record shows that Fontanez understood the actions for which he was charged and that his plea was a complete admission of guilt. It was only upon hearing testimony from his victims at the sentencing hearing that he sought to change his plea. Fontanez’s disagreement with his victims’ characterization of the offenses at sentencing does not affect the indictment or any of the elements of the offenses for which he was charged, and it

is not an assertion of actual innocence. Thus, Fontanez is presumed to have understood that his guilty plea was a complete admission of guilt.

{¶ 47} In answering the certified question before the court, we hold that a trial court does not completely fail to comply with Crim.R. 11(C)(2) so as to render a guilty plea invalid when it fails to explicitly state that a guilty plea constitutes a complete admission of guilt as long as the trial court otherwise complies with the requirements of Crim.R. 11(C)(2), the defendant's admission of guilt is obvious from the context of the plea colloquy, and the defendant does not assert actual innocence.

{¶ 48} Because the trial court's deficiency here was not the type that would excuse a defendant from showing prejudice, Fontanez would have had to show prejudice under the final prong of *Dangler* to vacate his plea. However, that issue is not before this court, and we will not opine whether Fontanez was prejudiced by the trial court's noncompliance with Crim.R. 11. The Eighth District held that he was not, *Fontanez*, 2024-Ohio-1590, at ¶ 22 (8th Dist.), and we declined to review that issue, 2025-Ohio-156. Accordingly, the Eighth District's decision below is affirmed.

III. CONCLUSION

{¶ 49} The requirements in Crim.R. 11 serve as guardrails to ensure that a defendant's guilty plea is entered into knowingly, intelligently, and voluntarily. But not every deviation from Crim.R. 11 warrants vacating the defendant's plea. We have recognized narrow circumstances when a plea must be vacated because of a trial court's noncompliance with Crim.R. 11. Absent these limited circumstances, a defendant must show that he or she was prejudiced by the omission. Here, the trial court did not explicitly inform Fontanez that his guilty plea was a complete admission of guilt. Absent a defendant's assertion of actual innocence, a court may presume that a defendant understands this common definition of a guilty plea. The trial court's failure to explicitly inform Fontanez that his guilty plea was a complete

admission of guilt in this case does not constitute a “complete failure” to comply with Crim.R. 11. *State v. Griggs*, 2004-Ohio-4415, remains good law and fits within the framework we clarified in *State v. Dangler*, 2020-Ohio-2765. The Eighth District Court of Appeals’ judgment is affirmed.

Judgment affirmed.

BRUNNER, J., dissenting.

{¶ 50} Before accepting a guilty plea, a trial court is required by Crim.R. 11 to inform a defendant of the effect of the plea and determine that the defendant understands the effect of the plea. Crim.R. 11(C)(2)(b). The rule explains that the effect of a guilty plea is that the plea “is a complete admission of the defendant’s guilt.” Crim.R. 11(B)(1). There is no question in this case that the court did not inform appellant, Albert Fontanez, that his guilty plea would be a complete admission of guilt. *See* majority opinion, ¶ 30. In my view, this was “[a] complete failure to comply with the rule,” *State v. Sarkozy*, 2008-Ohio-509, ¶ 22.

{¶ 51} In some cases, we have attempted to analyze whether evidence or documents in the record—like the transcript of the plea hearing or any plea forms used or signed by a defendant—demonstrated that a trial court complied with the rule or showed that regardless of noncompliance, the defendant understood the consequences of his plea. *See, e.g., State v. Griggs*, 2004-Ohio-4415, ¶ 16-19, discussing *State v. Stewart*, 51 Ohio St.2d 86 (1977), and *State v. Nero*, 56 Ohio St.3d 106 (1990). But the subjectivity of this analysis can be problematic. *See* majority opinion at ¶ 28-30. We risk conflating a defendant’s subjective knowledge of his rights with the duty of the trial court to inform him of those rights. *See, e.g., Nero* at 108 (“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.”). Further, a defendant’s subjective understanding of the effect of his plea cannot constitute compliance with a rule that *requires* the court

to inform the defendant of the effect. And this court's recent attempt at simplification in *State v. Dangler*, 2020-Ohio-2765, ¶ 17, has baked into the law a degree-of-noncompliance analysis that is further problematic in that it has created the potential for conflicts among the courts of appeals. See 2024-Ohio-4579 (8th Dist.), ¶ 10; 2025-Ohio-156 (this court quoting the conflict question certified by the Eighth District Court of Appeals).

{¶ 52} The majority opinion only introduces even more equivocation into the process of pleading guilty instead of going to trial, making it harder to guarantee the most basic rights to due process. Although the majority opinion stresses *literal compliance* with Crim.R. 11, see majority opinion at ¶ 23, it actually normalizes noncompliance by giving trial courts the green light to skip the requirement to inform a defendant of the effect of his guilty plea and to instead make presumptions about what a defendant understands. And the majority suggests that reviewing courts perform an additional, subjective test to determine whether the defendant *could* have understood the effect of his guilty plea (“If a defendant *could* have subjectively understood the consequences of a plea, the trial court has not completely failed to comply with Crim.R. 11.”). (Emphasis in original.) Majority opinion at ¶ 36.

{¶ 53} On the record before us, it is difficult to divine that Fontanez understood that he was fully admitting his guilt on nine of the eighteen charges against him simply from his agreeing to enter a plea of guilty to those charges. Many defendants view plea bargaining primarily in terms of sentencing and not as convictions with postjudgment and collateral consequences.

{¶ 54} This rings true in Fontanez's case because there is nothing in the record to demonstrate that he was presented with a written plea agreement or a form that explained his rights and the effects of his guilty plea. And the transcript of the court proceedings before Fontanez changed his plea to guilty indicates that he took the deal presented by the prosecutor to decrease his prison time. This, combined

with his disagreement with the victim’s statements at sentencing, suggests that he did not fully understand the effects of his guilty plea.

{¶ 55} Today’s majority opinion gives trial courts an excuse to not comply with Crim.R. 11, a mandatory rule. In my view, we should either propose an amendment to Crim R. 11 to conform it to our caselaw¹ or provide trial courts additional tools—like standardized plea forms—to ensure that due process is protected and that defendants’ waivers of their rights are voluntary, intelligent, and knowing.

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D. Andrew Wilson, Attorney General, and Mathura J. Sridharan, Solicitor General, and Samuel C. Peterson, Deputy Solicitor General, urging affirmance for amicus curiae, Ohio Attorney General D. Andrew Wilson.

1. For example, in *Griggs*, 2004-Ohio-4415, we held that in circumstances similar to those here, a trial court is excused from informing a defendant of the effect of his guilty plea. This runs counter to the language in the rule: “the court . . . shall not accept a plea of guilty . . . without first . . . doing all of the following: . . . (b) Informing the defendant of . . . the effect of the plea of guilty” Crim.R. 11(C)(2).