

[Cite as *State v. Williams*, 2011-Ohio-6231.]

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

State of Ohio, :
 :
 Plaintiff-Appellee, :
 :
 v. : No. 10AP-1135
 : (C.P.C. No. 05CR-12-8578)
 Randolph Williams, Jr., :
 : (ACCELERATED CALENDAR)
 Defendant-Appellant. :

D E C I S I O N

Rendered on December 6, 2011

Ron O'Brien, Prosecuting Attorney, and *Seth L. Gilbert*, for
appellee.

Randolph Williams, Jr., pro se.

APPEAL from the Franklin County Court of Common Pleas

CONNOR, J.

{¶1} Defendant-appellant, Randolph Williams, Jr. ("appellant"), appeals from a judgment entered by the Franklin County Court of Common Pleas denying his motion to withdraw guilty plea and his motion for resentencing to vacate a void sentence. For the following reasons, we affirm.

{¶2} On March 20, 2006, appellant pled guilty to one count of burglary, a felony of the third degree. Appellant signed an entry of guilty plea form which stated he was subject to an "optional" period of post-release control for up to three years. The plea form also contained a provision explaining additional sanctions which could be imposed if a

violation occurred. During the plea hearing, appellant acknowledged he reviewed the plea form with his attorney who explained the rights he was waiving and the possible consequences of entering the plea.

{¶3} On March 28, 2006, a sentencing hearing was held. At the hearing, the trial court imposed a sentence of five years of incarceration and ordered restitution in the amount of \$1,000. The trial court orally advised appellant that, when he was released from prison, he would be placed on post-release control for a period of five years. The trial court further advised appellant at the sentencing hearing that: (1) if he committed any violations while on post-release control, he could receive additional prison time as a result of those violations, up to nine months for each violation; (2) the prison term for post-release control violations cannot exceed two and one-half years (50 percent of the sentence originally imposed); and (3) if he committed any new offenses while on post-release control, any sentence imposed on the new charge would run consecutively to any sentence imposed for the post-release control violation.

{¶4} In addition, the record reflects appellant was provided with a notice titled "Prison Imposed" on the date of the sentencing hearing. The form reads as follows:

NOTICE
(Prison Imposed)

The Court hereby notifies the Defendant as follows:

Post-Release Control.

After you are released from prison, you (will,¹ may) have a period of post-release control for 3 years following your release from prison. If you violate [any] post-release control sanction imposed upon you, any one or more of the following may result:

¹ The word "will" is circled in black ink.

(1) The Parole Board may impose a more restrictive post-release control sanction upon you: and

(2) The Parole Board may increase the duration of the post-release control subject to a specified maximum; and

(3) The more restrictive sanction that the Parole Board may impose may consist of a prison term, provided that the prison term cannot exceed nine months and the maximum cumulative prison term so imposed for all violations during the period of post-release control cannot exceed one-half of the stated prison term originally imposed upon you; and

(4) If the violation of the sanction is a felony, you may be prosecuted for the felony and, in addition to any sentence it imposes on you for the new felony, the Court may impose a prison term, subject to a specified maximum, for the violation.

I hereby certify that the Court read to me, and gave me in writing, the notice set forth herein.

(R. 33.)

{¶5} The attorney who represented appellant at the sentencing hearing signed his name to the attorney signature line, certifying that the trial judge "read to the Defendant, and gave (him,her) in writing, the notice set forth within." (R. 33.) However, the form indicates on appellant's signature line that appellant "will not sign" and it is initialed by appellant's trial counsel.

{¶6} Below the signature lines, the notice further states: "Note: [F-1 and felony sex offenders-mandatory 5 years; F-2 and F-3 with harm, mandatory 3 years; other F-3, F-4, F-5 not mandatory-up to 3 years]." (R. 33.)

{¶7} A sentencing entry was filed on March 30, 2006. In addressing the issue of post-release control, the sentencing entry reads as follows:

At sentencing the Court notified the Defendant, orally and in writing of the applicable period of post-release control.

The Court, pursuant to this entry, notified the Defendant that he will receive a period of post-release control up to a maximum of 3 years and, if he violates post-release control his sentence will be extended administratively in accordance with State law.

(R. 34 at 2.)

{¶8} Since the sentencing hearing, appellant has filed numerous motions, including motions for resentencing and petitions for post-conviction relief. Among those was a motion for leave to file a delayed appeal, which this court denied on December 12, 2006. See *State v. Williams* (Dec. 12, 2006), 10th Dist. No. 06AP-999 (memorandum decision). In August 2007, appellant filed a post-conviction petition requesting that the trial court vacate or set aside his conviction and sentence. On March 12, 2008, the trial court denied appellant's petition to vacate or set aside sentence. Appellant filed an appeal which we subsequently dismissed due to his failure to file a brief. See Journal Entry of Dismissal in *State v. Williams* (June 26, 2008), 10th Dist. No. 08AP-296. On October 21, 2010, appellant filed the instant motion to withdraw guilty plea and motion for resentencing to vacate a void judgment, both of which were denied by the trial court on November 29, 2010. Appellant now files this timely appeal and asserts two assignments of error for our review:

FIRST ASSIGNMENT OF ERROR

THE TRIAL COURT COMMITTED ERROR AND ABUSED ITS DISCR[E]TION BY DENYING THE APPELLANT'S MOTION FOR RESENTENCING TO VACATE A VOID SENTENCE.

SECOND ASSIGNMENT OF ERROR

THE TRIAL COURT COMMITTED ERROR AND ABUSED ITS DISCR[E]TION BY DENYING THE APPELLANT'S PRESENTENCE MOTION TO WITHDRAW GUILTY PLEA.

{¶9} In his first assignment of error, appellant claims the trial court erred in denying his motion to impose a valid sentence, arguing the trial court erred by incorrectly advising him he was subject to a five-year period of mandatory post-release control, rather than a period of optional post-release control for up to three years. Appellant also argues the trial court's judgment entry failed to accurately record the period of post-release control orally imposed by the judge. In addition, appellant contends the judgment entry fails to set forth the consequences for violating post-release control, specifically, that he could receive further incarceration of up to 50 percent of his original prison sentence if he violates. Thus, appellant submits his sentence is void and contrary to law.

{¶10} The State of Ohio, on the other hand, contends appellant's motion was properly denied, arguing: (1) the motion is barred by res judicata; and (2) appellant received proper notice of post-release control because the sentencing entry is not required to state the length of the post-release control period or the mandatory/discretionary nature of the term, and appellant was not prejudiced by the trial court's oral reference to a more severe sentence than that which was actually imposed in the sentencing entry.

{¶11} "In 1996, the General Assembly imposed a duty on trial courts to notify an offender at the sentencing hearing of the imposition of postrelease control and of the authority of the parole board to impose a prison term for a violation; the General Assembly also required that a court include any postrelease-control sanctions in its

sentencing entry. See former R.C. 2929.14(F) and former R.C. 2929.19(B)(3)(b) through (d) and (B)(4), Am.Sub.S.B. No. 2, 146 Ohio Laws, Part IV, 7136, 7470, 7486-7487." *State v. Singleton*, 124 Ohio St.3d 173, 2009-Ohio-6434, ¶22.

{¶12} Appellant asserts that in order to comply with the statutory mandates regarding the imposition of post-release control, the sentencing entry must include the proper length of the period of post-release control imposed by the trial court, whether the period of post-release control is discretionary or mandatory, and notice of the consequences for violating post-release control. However, we have previously determined otherwise.

{¶13} In *State v. Mays*, 10th Dist. No. 10AP-113, 2010-Ohio-4609, the defendant appealed from a nunc pro tunc entry filed after he was resentenced. The resentencing hearing clarified the application of post-release control and stated the length of the post-release control term. Mays challenged the use of a videoconference to resentence him, arguing he had a right to be present at the resentencing. While declining to address the propriety of the process used, we determined that the resentencing hearing had in fact been unnecessary, because post-release control had been properly imposed through the original proceeding and the original entry.

{¶14} In considering the entire record in *Mays*, we found post-release control had been properly imposed because: (1) the original sentencing entry stated that appellant had been notified of the applicable periods of post-release control; (2) the defendant had signed a "Prison Imposed" notice which stated that he was subject to a particular period of post-release control (five years); and (3) the defendant had also signed a plea form

which stated he understood that he would be subject to a specific period of post-release control if a prison term was imposed (five years mandatory).

{¶15} We also reached a similar determination in *State v. Chandler*, 10th Dist. No. 10AP-369, 2010-Ohio-6534 (where the original sentencing entry stated that the defendant was informed of the applicable period of post-release control but did not specify that the applicable period was five years, but the defendant signed a plea form indicating he would be subject to five years of post-release control if prison was imposed, the record contained a "Prison Imposed" notice setting forth a five-year period of post-release control, and the guilty plea hearing transcript revealed the trial court orally advised the defendant he would be subject to a five-year period of post-release control, post-release control was properly imposed in the original sentencing entry).

{¶16} The applicable language set forth in the sentencing entries² in *Mays* and *Chandler*, as well as the language used in the "Prison Imposed" notice in those two cases is substantially similar to that found here in the instant case. We find the rationale set forth in *Mays* and *Chandler* is equally applicable here and we have followed this rationale on numerous occasions. See also *State v. Cunningham*, 10th Dist. No. 10AP-452, 2011-Ohio-2045; *State v. Quintanilla*, 10th Dist. No. 10AP-703, 2011-Ohio-4593; *State v. Townsend*, 10th Dist. No. 10AP-983, 2011-Ohio-5056; and *State v. Klausman*, 10th Dist. No. 10AP-794, 2011-Ohio-4980.

{¶17} As a result, we believe the entry of guilty plea form as well as the "Prison Imposed" notice can be used to provide notification of post-release control. More

² Much of the language contained in the sentencing entry in the case subjudice is nearly identical to the language in the *Mays* and *Chandler* sentencing entries. However, the sentencing entry at issue here does contain additional information regarding the specific period of post-release control imposed and about the parole board's authority to extend the sentence if violations of post-release control occur.

specifically, we have found in previous cases involving post-conviction motions that the use of the entry of guilty plea form and the "Prison Imposed" notice, along with any other written or oral notification of post-release control provided, can be sufficient to satisfy the statutory requirements regarding notification at the sentencing hearing of post-release control supervision and the consequences for violating that supervision. We have further found that language similar to that used in the sentencing entry here, in conjunction with the notifications referenced above, can also be sufficient to meet the necessary statutory requirements in the sentencing entry. See *Townsend* at ¶7; *State v. Addison*, 10th Dist. No. 10AP-554, 2011-Ohio-2113.

{¶18} However, the circumstances in this case are somewhat unique in that the trial court's oral advisement at the sentencing hearing regarding the imposition of post-release control is not consistent with the advisements contained in the sentencing entry, the post-release control notice, and the entry of guilty plea.

{¶19} At the sentencing hearing, the trial court orally advised appellant: "After you are released from the institution you'll have a period of post-release control. That period will be for five years." (Tr. 13.) The entry of guilty plea, the prison imposed notice, and the sentencing entry, however, all indicate that appellant is subject to three years of post-release control supervision. And, there is some potential ambiguity amongst those documents as well. The entry of guilty plea form states appellant is subject to an "optional" three-year period of post-release control; the sentencing entry states appellant "will receive a period of post-release control up to a maximum of 3 years"; and the "Prison Imposed" notice states appellant "will have a period of post-release control for 3 years," but the bottom of the form states "other F-3, F-4, F-5 not mandatory-up to 3 years,"

meaning it includes F-3's without harm, which is the category into which appellant falls in the instant case, thus implying that appellant's term is discretionary, rather than mandatory.

{¶20} In order to determine the sentence that was actually imposed by the trial court, we must begin with the discrepancy that exists between the oral notification of five years post-release control given at the sentencing hearing, and the three years of post-release control imposed at the sentencing hearing via the "Prison Imposed" notice. A close review of that notice form reveals there is a blank where the number of years of post-release control must be written in ink. In the blank is the number "3." However, next to the number three, it appears there was previously another number written in the blank, which was subsequently scratched out with ink. That number appears to have been a "5." Based upon this observation, it appears that the trial court initially believed appellant was subject to a five-year period of post-release control, but upon discovering that error, corrected the error to advise appellant of the correct three-year period of post-release control. We believe the corrected information was provided in such a manner as to remedy the erroneous information. As we have previously noted, the "Prison Imposed" notice provided at the sentencing hearing, in conjunction with other notification, can be utilized to notify the appellant at the sentencing hearing of the imposition of post-release control and its consequences. See *Townsend*; *Mays*; *Chandler*, and *Quintanilla*.

{¶21} Through a line of cases involving similar issues, this court has determined "that a technical deficiency in a sentencing entry imposing postrelease control does not render the entry void where the record as a whole reveals the trial court satisfied all of the statutorily mandated terms for imposing postrelease control." *Strong v. Ohio State Adult*

Parole Auth., 10th Dist. No. 11AP-52, 2011-Ohio-5615, ¶21. We believe this general principle is applicable here as well. Although the trial judge erred in orally advising appellant during the sentencing hearing that his period of post-release control would be five years, given this particular record as a whole, and considering all of the circumstances on a case-by-case basis, we find appellant was properly advised of post-release control with respect to the length of the post-release control term.

{¶22} Having clarified this, we now turn to the issue of the type of post-release control imposed—mandatory or discretionary.

{¶23} The sentencing entry at issue here uses the following language: "he will receive a period of post-release control up to a maximum of 3 years." The "up to" language is often described as discretionary language. See *Watkins v. Collins*, 111 Ohio St.3d 425, 2006-Ohio-5082. See also R.C. 2967.28(C). More important, however, is the fact that our court has applied a "totality of the circumstances" test to determine whether or not the defendant was properly notified of post-release control. See *State v. Franks*, 10th Dist. No. 04AP-362, 2005-Ohio-462, ¶15; and *State v. Williams*, 10th Dist. No. 10AP-922, 2011-Ohio-4923, ¶18.

{¶24} Here, the sentencing entry does not state that the term of post-release control was mandatory. In fact, the sentencing entry does not use either term—neither "discretionary" nor "mandatory"—in referring to the imposition of post-release control. However, the entry of guilty plea form clearly states that the term of post-release control is "Up to Three Years - Optional." While the "Prison Imposed" notice states appellant "will" have a period of post-release control for 3 years, the explanation at the bottom of the form indicates that an F-3 like the one for which appellant was convicted necessitates only an

optional post-release control term. Based upon this record and upon the totality of the circumstances here, we find the trial court properly notified appellant of a term of discretionary post-release control.

{¶25} Moreover, we find it significant that in *Watkins*, the Supreme Court of Ohio determined that where the sentencing entries mistakenly included language indicating that the terms of post-release control were discretionary, when in fact the terms of post-release control were mandatory, the granting of habeas relief was not required. The court also stated the issue could have been raised on appeal. The court found "the sentencing entries are sufficient to afford notice to a reasonable person that the courts were authorizing postrelease control as part of each petitioner's sentence." *Watkins* at ¶51. The court further determined "[t]his conclusion is consistent with the preeminent purpose of R.C. 2967.28 that offenders subject to postrelease control know at sentencing that their liberty could continue to be restrained after serving their initial sentences." *Id.* at ¶52. That purpose was clearly served here as well.

{¶26} However, we acknowledge that this action involves a post-conviction petition (not a habeas petition or a direct appeal), and that *State v. Fischer*, 128 Ohio St.3d 92, 2010-Ohio-6238, paragraph one of the syllabus, has since held that a sentence which fails to include the statutorily mandated term of post-release control is void, is not precluded from appellate review by res judicata, and may be reviewed at any time on direct appeal or by collateral attack. And, admittedly, since *Watkins*, the Supreme Court of Ohio has also decided *State v. Bloomer*, 122 Ohio St.3d 200, 2009-Ohio-2462, ¶69, in which it concluded that where the trial court failed to notify the offender of the mandatory nature of the post-release control term and of the length of that term and to incorporate

such notification into its sentencing entry, "the court failed to satisfy the most basic requirement of R.C. 2929.191 and our existing precedent[.]" Nevertheless, we believe the case law from our district on this issue as cited above is consistent with the principles of both *Fischer* and *Bloomer*.

{¶27} Furthermore, we cannot say that a potential overstatement of the sanction that could be imposed creates prejudice or causes appellant's sentence to be void. For example, in *State v. Young*, 4th Dist. No. 06CA10, 2007-Ohio-5232, the defendant was advised that he would be subject to a period of post-release control and that a violation would permit the imposition of a residential sanction, which could include a new prison term of up to 12 months. However, pursuant to R.C. 2943.032, the new prison term could only be 9 months. The court of appeals found that the trial court's overstatement of the sanction did not create prejudice and did not warrant reversal of his conviction.

{¶28} A similar conclusion was reached in *State v. Carnicom*, 2d Dist. No. 2003-CA-4, 2003-Ohio-4711 (defendant was not entitled to have his guilty plea vacated where there was an overstatement by the trial court regarding the potential length of a post-release control sanction, since no prejudice could be demonstrated). We believe the same reasoning should be applicable to the circumstances here. Therefore, we fail to see how, on this record, the fact that appellant may not have been specifically advised at every turn that the imposition of post-release control was in fact discretionary and not mandatory, such action prejudices appellant when the term imposed is actually less than the mandatory term which he may have believed was required.³

³ In actuality, the parole board chose to place appellant on a one-year period of post-release control. See R. 81 at exhibit E.

{¶29} Therefore, we find appellant was properly notified of post-release control and the trial court properly complied with the statutory requirements governing the imposition of post-release control. Because we find appellant's sentences are not void, the trial court did not abuse its discretion in overruling appellant's motion to vacate, and we overrule appellant's first assignment of error.

{¶30} In his second assignment of error, appellant argues the trial court erred in denying his "presentence" motion to withdraw guilty plea. Appellant contends he did not enter a knowing, intelligent, and voluntary plea with full understanding of the maximum penalties involved because the trial court failed to personally advise him that he would be subject to an optional period of post-release control for up to three years and that the consequences of violating the conditions of post-release control could result in further incarceration. Appellant contends this failure violates the requirements contained in Crim.R.11(C)(2)(a) and R.C. 2943.032.⁴

{¶31} Although appellant attempts to characterize his motion to withdraw guilty plea as a "presentence" motion, it is clearly a post-sentence motion, as it was filed several years after he began serving his sentence. Motions to withdraw guilty pleas are governed by Crim.R. 32.1, which provides as follows: "A motion to withdraw a plea of guilty or no contest may be made only before sentence is imposed; but to correct manifest injustice the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw his or her plea."

⁴ The current version of R.C. 2943.032 (as well as the former version) states that prior to accepting a guilty plea, the court must personally inform the defendant that if he pleads to a felony and if the court imposes a prison term, certain additional sanctions can be imposed by the parole board, including a residential sanction that includes a new prison term of up to nine months.

{¶32} Thus, the trial court was required to determine whether granting the motion is necessary to correct a manifest injustice. "Manifest injustice relates to some fundamental flaw in the proceedings which result[s] in a miscarriage of justice or is inconsistent with the demands of due process." *State v. Williams*, 10th Dist. No. 03AP-1214, 2004-Ohio- 6123, ¶5. Manifest injustice " 'is an extremely high standard, which permits a defendant to withdraw his guilty plea only in extraordinary cases.' " *State v. Tabor*, 10th Dist. No. 08AP-1066, 2009-Ohio-2657, ¶6, quoting *State v. Price*, 4th Dist. No. 07CA47, 2008-Ohio-3583, ¶11. A guilty plea that was not made knowingly, intelligently, or voluntarily, creates a manifest injustice and would entitle a defendant to withdraw the plea. *Williams* at ¶5.

{¶33} "A defendant who seeks to withdraw a plea of guilty after the imposition of sentence has the burden of establishing the existence of manifest injustice." *State v. Smith* (1977), 49 Ohio St.2d 261, paragraph one of the syllabus. A motion pursuant to Crim.R. 32.1 is addressed to the sound discretion of the trial court. *Id.* at paragraph two of the syllabus. Thus, appellate review of the trial court's denial of a post-sentence motion to withdraw guilty plea is limited to the determination of whether the trial court abused its discretion. *State v. Conteh*, 10th Dist. No. 09AP-490, 2009-Ohio-6780, ¶16. "The term 'abuse of discretion' connotes more than an error of law or judgment; it implies that the court's attitude is unreasonable, arbitrary or unconscionable." *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 219.

{¶34} The State of Ohio argues that appellant's claims are barred by res judicata. Under the doctrine of res judicata, "a final judgment bars a convicted defendant * * * from raising and litigating in any proceeding, except an appeal from that judgment, any

defense or any claimed lack of due process that the defendant raised or could have raised at trial or on appeal." *State v. Brown*, 167 Ohio App.3d 239, 2006-Ohio-3266, ¶7. Alternatively, the State argues appellant has failed to demonstrate manifest injustice.

{¶35} Regardless of whether the principles of res judicata apply here, we find appellant has failed to demonstrate manifest injustice, and therefore, we find the trial court did not abuse its discretion in denying appellant's motion to withdraw guilty plea.

{¶36} Failure to adequately inform a defendant of his constitutional rights invalidates a guilty plea under the presumption that it was entered involuntarily and unknowingly. *State v. Griggs*, 103 Ohio St.3d 85, 2004-Ohio-4415, ¶12. However, knowledge of the maximum penalty is not constitutionally required for a knowing, intelligent, and voluntary plea. *State v. Johnson* (1988), 40 Ohio St.3d 130, 133. The non-constitutional rights of which a defendant must be informed include the nature of the charges and the maximum penalty. Crim.R. 11(C)(2)(a); see also *State v. Gosnell*, 2d Dist. No. C.A. 24213, 2011-Ohio-4288, ¶11. Substantial compliance with Crim.R. 11(C) is sufficient when a defendant is waiving non-constitutional rights. *State v. Nero* (1990), 56 Ohio St.3d 106, 108. Substantial compliance means that under the totality of the circumstances, the defendant subjectively understands the implications of the plea and the rights he is waiving. *Id.* at 108. Failure to comply with non-constitutional rights does not invalidate a plea unless the defendant suffers prejudice. *Id.* The test for prejudice is "whether the plea would have otherwise been made." *Id.*

{¶37} In the instant case, it is true that during the course of the plea hearing, the trial judge did not specifically raise the issue of post-release control. However, the trial judge had the following exchange with appellant:

THE COURT: Okay. Mr. Williams, have you had the opportunity to go through this plea form with your attorney?

[APPELLANT]: Yes.

THE COURT: Has he explained all the rights you're waiving and the possible consequences of entering the plea?

[APPELLANT]: Yes

(Tr. 3.)

{¶38} The second page of the plea form states: "If the Court imposes a prison term, I understand that the following period(s) of post-release control is/are applicable."

(R. 32 at 2.) The form then lists various post-release control periods. On this particular plea form, there is an "X" in the box next to the phrase "F-3 without Cause or Threat of Physical Harm Up to Three Years – Optional." Immediately below this language, is the following statement:

I understand that a violation of post-release control conditions or the condition under R.C. 2967.131 could result in more restrictive non-prison sanctions, a longer period of supervision or control up to a specified maximum, and/or reimprisonment for up to nine months. The prison term(s) for all post-release control violations may not exceed one-half of the prison term originally imposed. I understand that I may be prosecuted, convicted, and sentenced to an additional prison term for a violation that is a felony. I also understand that such felony violation may result in a consecutive prison term of twelve months or the maximum period of unserved post-release control, whichever is greater. Prison terms imposed for violations or new felonies do not reduce the remaining post-release control period(s) for the original offense(s).

(R. 32 at 2.)

{¶39} Based upon the information contained in the plea form, combined with the trial court's inquiry regarding whether appellant had discussed the possible consequences of the plea with his attorney, we find the trial court substantially complied with the

requirement to advise appellant of the maximum penalties, including the imposition of post-release control and the consequences for violating post-release control, as set forth in Crim.R. 11(C) and R.C. 2943.032. The totality of the circumstances here indicates that appellant knew about post-release control and the sanctions for violating post-release control. See *State v. Amburgy*, 10th Dist. No. 04AP-1332, 2006-Ohio-135, ¶¶14-18. See also *State v. Duncan* (Apr. 2, 1998), 10th Dist. No. 97APA08-1044 (a trial court can determine that a defendant understands the implications of the plea and the rights being waived based on the totality of the circumstances; the court determined the defendant did not suffer prejudice where he was advised via the plea form, the prison imposed notice, and a brief reference to post-release control by the prosecutor).

{¶40} Additionally, we find this case to be distinguishable from *State v. Sarkozy*, 117 Ohio St.3d 86, 2008-Ohio-509, in that the *Sarkozy* decision does not indicate there were any references to post-release control at all during the plea colloquy, not even a plea form that set forth the applicable post-release control information, as is present in the instant case.

{¶41} Furthermore, appellant has not asserted that prejudice resulted from the trial court's failure to engage in some verbal dialogue specifically about post-release control. Nor does appellant assert that, had he been personally informed by the trial court about post-release control, he would have withdrawn/never entered into the plea and proceeded to trial. We find the record does not demonstrate prejudice resulting from the trial court's acceptance of his guilty plea in this fashion and, therefore, we conclude the trial court substantially complied with Crim.R. 11(C) and R.C. 2943.032. Appellant's guilty plea does not offend due process, there is no manifest injustice requiring a post-sentence

withdrawal of the guilty plea, and the trial court did not abuse its discretion in denying appellant's motion to withdraw guilty plea.

{¶42} Accordingly, appellant's second assignment of error is overruled.

{¶43} In conclusion, we overrule appellant's first and second assignments of error. The judgment of the Franklin County Court of Common Pleas denying appellant's motion to withdraw guilty plea and motion for resentencing to vacate a void sentence is affirmed.

Judgment affirmed.

BRYANT, P.J., and KLATT, J., concur.
