

**IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
ASHTABULA COUNTY**

STATE OF OHIO,

Plaintiff-Appellee,

- vs -

ROMAN M. TACKETT,

Defendant-Appellant.

CASE NO. 2026-A-0003

Criminal Appeal from the
Court of Common Pleas

Trial Court No. 2025 CR 00044

OPINION AND JUDGMENT ENTRY

Decided: August 24, 2026
Judgment: Affirmed

April R. Grabman, Ashtabula County Prosecutor, and *Dane R. Hixon*, Assistant Prosecutor, 25 West Jefferson Street, Jefferson, OH 44047 (For Plaintiff-Appellee).

William C. Livingston, Berkman, Gordon, Murray & DeVan, 55 Public Square, Suite 2200, Cleveland, OH 44113 (For Defendant-Appellant).

JOHN J. EKLUND, J.

{¶1} Appellant, Roman M. Tackett, appeals his conviction in the Ashtabula County Court of Common Pleas after pleading guilty to eight counts of Rape.

{¶2} Appellant has raised two assignments of error arguing: (1) the trial court failed to comply with Crim.R. 11(B) and (C) because it failed to advise him of the effect of a plea of guilty; and (2) the trial court erred by imposing sentence on allied offenses of similar import.

{¶3} Having reviewed the record and the applicable caselaw, Appellant's assignments of error are without merit. First, although the trial court did not precisely

incant the language of Crim.R. 11 verbatim by stating the effect of a guilty plea verbatim, the trial court nevertheless fully complied with the requirements of the rule. Second, in failing to raise the allied offenses issue below, Appellant has forfeited all but plain error on review. Appellant has failed to demonstrate a reasonable probability that his multiple convictions were committed with the same conduct and without a separate animus.

{¶4} Therefore, the judgment of the Ashtabula County Court of Common Pleas is affirmed.

Substantive and Procedural History

{¶5} On March 20, 2025, Appellant was indicted on 14 Counts of Rape. Counts 1 through 6 were first-degree felonies in violation of R.C. 2907.02(A)(1)(b). Counts 7 through 10 were first-degree felonies in violation of R.C. 2907.02(A)(2). Each of these counts identified E.T. DOB 6-7-2011 as the victim. Counts 11 through 14 were first-degree felonies in violation of R.C. 2907.02(A)(1)(b) and included a specification that the victim, J.T. DOB 4-15-2015, was less than 13 years of age at the time of the offenses.

{¶6} On April 4, 2025, Appellant was arraigned.

{¶7} On May 2, 2025, Appellant filed a motion for a competency evaluation.

{¶8} Appellant did not stipulate to the findings of the competency evaluation and filed a second motion for a competency evaluation.

{¶9} Both parties stipulated to the second competency report, and Appellant was found competent to stand trial.

{¶10} On December 8, 2025, the matter proceeded to a plea/sentencing hearing. The parties entered into a written plea agreement with a stipulated sentence of 30 years to life imprisonment. In exchange for Appellant's plea, the State agreed to dismissed

Counts 7 through 10 and Counts 13 and 14. The State also agreed to amend Counts 11 and 12 to remove the specification that the victim was under ten years old.

{¶11} The written plea agreement stated that Appellant understood “that this plea means I give up my right: . . . At a trial the State would be required to prove my guilt beyond a reasonable doubt on every element of the offense.” Further, the written plea agreement stated: “I understand that this written plea of ‘Guilty’ constitutes an admission which may be used against me at a later trial. By pleading ‘Guilty’ I admit committing the offense and will tell the judge the facts and circumstances of my guilt.”

{¶12} At the hearing, the trial court asked Appellant, “So, you do understand what’s going on here today, correct?” Applied said, “Yeah.” The trial court asked Appellant to explain in his own words what would happen, and Appellant said, “I’m going got go to prison” for 30 years to life.

{¶13} The trial court explained that by pleading guilty, Appellant was giving up his right to go to trial and that “[a]t trial the State’s required to prove you guilty beyond a reasonable doubt on every element of the offense.” The trial court also said that Appellant’s “plea of guilty constitutes an admission which may be used against you at a later trial; by pleading guilty, you admit committing the offense, and you will tell me the facts and circumstances of your guilty. [sic]” Appellant said that he understood.

{¶14} The State provided a summary of the offenses. E.T. reported that Appellant “had sex with her multiple times in this house and even before this house. She described the sex acts in the bedroom, bathroom and basement.” In addition, J.T. reported that Appellant had engaged in sexual conduct with him, including anal intercourse and fellatio.

{¶15} The trial court sentenced Appellant to 10 years to life on Count 1; 10 years to life on Count 2, to be served consecutive to Count 1; ten years to life on Counts 3, 4, 5, and 6, to be served concurrent to Counts 1, 2 and 11; and 10 years to life on Count 11 to be served consecutive to Counts 1 and 2 for an aggregate sentence of 30 years to life.

{¶16} Appellant timely appealed raising two assignments of error.

Assignments of Error and Analysis

{¶17} Appellant's first assignment of error states: "Appellant did not enter into a knowing, intelligent and voluntary plea in violation of the Fourteenth Amendment to the United States Constitution and Article I, Section 10 of the Ohio Constitution and his convictions and sentences should be reversed."

{¶18} This Court reviews de novo whether the trial court accepted a plea in compliance with Crim.R. 11. *State v. Willard*, 2021-Ohio-2552, ¶ 51 (11th Dist.). In reviewing a plea colloquy, the focus is not "on whether the trial judge has '[incanted] the precise verbiage' of the rule, but on whether the dialogue between the court and the defendant demonstrates that the defendant understood the consequences of his plea." (Internal citation omitted; bracketed text in original.) *State v. Dangler*, 2020-Ohio-2765, ¶ 12, quoting *State v. Stewart*, 51 Ohio St.2d 86, 92 (1977). The "traditional rule" is that a reviewing court will not reverse a conviction on appeal unless "an error occurred in the trial-court proceedings and . . . [the defendant] was prejudiced by that error." *Id.* at ¶ 13.

{¶19} One exception to this rule is when the trial court fails to explain during the plea colloquy the constitutional rights the defendant waives by pleading guilty or no contest. *Id.* at ¶ 14. The second exception to the prejudice requirement involves "a trial court's *complete* failure to comply with a portion of Crim.R. 11(C)," which "eliminates the

defendant's burden to show prejudice.” (Emphasis in original.) *Id.* at ¶ 15. A “complete failure to comply” with a non-constitutional requirement of Crim.R. 11 occurs when the court makes “no mention” of the requirement. *Id.*; *State v. Sarkozy*, 2008-Ohio-509, ¶ 22 (holding that a failure to mention postrelease control where the defendant was subject to a mandatory five years of postrelease control was a complete failure to comply with the requirements of Crim.R. 11(C)(2)(a)).

{¶20} To show prejudice, a defendant must demonstrate that the plea would not have been entered but for the trial court's error. *Id.* at ¶ 23.

{¶21} Crim.R. 11(B)(1) provides: “The plea of guilty is a complete admission of the defendant's guilt.”

{¶22} In the context of felony cases, Crim.R. 11(C)(2)(b) “requires that the trial court inform the defendant of and determine that he understands the effect of his plea of guilty. This is a nonconstitutional requirement.” *State v. Mallon*, 1999 WL 1297603, *5 (11th Dist. Dec. 17, 1999); *State v. Griggs*, 2004-Ohio-4415, ¶ 12.

{¶23} “Whether orally or in writing, a trial court must inform the defendant of the appropriate language under Crim.R. 11(B) before accepting a plea.” *State v. Jones*, 2007-Ohio-6093, ¶ 51.

{¶24} In *Dangler*, 2020-Ohio-2765, the Supreme Court of Ohio stated that when a trial court completely fails “to comply with a portion of Crim.R. 11(C),” the defendant's burden to show prejudice is eliminated. *Id.* at ¶ 15. If a trial court completely fails to comply with this portion of Crim.R. 11, the defendant does not need to show prejudice, and the matter must be reversed. *E.g.*, *State v. Dumas*, 2024-Ohio-2731, ¶ 7, 13 (2d Dist.) (holding the same in the context of a misdemeanor guilty plea); *State v. Johnson*, 2023-

Ohio-2008, ¶ 16-17 (6th Dist.) (applying the *Dangler* complete-failure analysis in the context of a felony no-contest plea).

{¶25} “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* at ¶ 17.

{¶26} In *State v. O’Brien-Devilliers*, 2024-Ohio-1432 (11th Dist.), we applied the *Dangler* complete failure analysis in the context of a misdemeanor plea of guilty. *Id.* at ¶ 47. We found that the trial court had completely failed to comply with Crim.R. 11(E) by failing “to make any mention of the Crim.R. 11(B) language, i.e., that the effect of Ms. O’Brien-Devilliers’ guilty pleas was a complete admission of her guilt.” *Id.* at ¶ 52. Because of this complete failure, we vacated the judgment, which was grounded on the defendant’s guilty pleas. *Id.* at ¶ 55; *State v. Sanchez*, 2024-Ohio-5868, ¶ 31 (11th Dist.) (holding the same); see also *State v. Sauceman*, 2021-Ohio-172, ¶ 17 (11th Dist.) (holding, without addressing *Dangler*, that a court is required to inform the defendant of the effect of his or her plea involving a guilty plea governed by Traf.R. 10).

{¶27} The issue before the Court is whether the trial court completely failed to comply, partially complied, or fully complied with Crim.R. 11(B). A complete failure to comply requires reversal regardless of whether there has been prejudice. A partial failure requires a showing of prejudice to warrant reversal unless the requirement was constitutional in nature.

{¶28} In this case, the trial court did not precisely incant the language of Crim.R. 11(B) by asking Appellant if he understood that his “plea of guilty is a complete admission of the defendant’s guilt.” Crim.R. 11(B)(1). However, the focus should not be on whether the trial court precisely incanted the language of the rule. Rather, the focus is on whether Appellant “understood the consequences of his plea.” *Dangler*, 2020-Ohio-2765, at ¶ 12.

{¶29} Both orally and in writing, the trial court informed Appellant that the effect of his guilty plea was to give up his right to have the State prove his guilt on every element of the offense. Further, the trial court explained that the plea of guilty “constitutes an admission which may be used against you at a later trial; by pleading guilty, *you admit committing the offense*, and you will tell me the facts and circumstances of your guilty. [sic]” (Emphasis added.) The above demonstrates that the trial court did not completely fail to comply with Crim.R. 11(B). In the absence of a complete failure to comply with the rule, Appellant must demonstrate prejudice by showing that he would not have entered the plea but for the trial court’s error.

{¶30} The trial court ensured that Appellant understood that pleading guilty required that he admit to committing the offense, that the plea constituted an admission that could be used against him at a later trial, and that the plea waived his right to have the State prove every element of the offense. In ensuring Appellant understood the above, the trial court complied with Crim.R. 11(C)(2)(b).

{¶31} Appellant’s assignment of error only asserts that the trial court completely failed to comply with Crim.R. 11(B). The requirements of Crim.R. 11(B) are nonconstitutional, and only a complete failure to comply, absent a showing of prejudice, will invalidate a plea. See *Griggs*, 2004-Ohio-4415, at ¶ 12. Appellant has not argued that

he was prejudiced by the trial court's failure and has not suggested that he would not have entered the plea but for the trial court's error. Based on the record, the trial court did not completely fail to comply with Crim.R. 11(B). Because of this, Appellant cannot prevail on his first assignment of error.

{¶32} Accordingly, Appellant's first assignment of error is without merit.

{¶33} Appellant's second assignment of error states: "The trial court committed reversible error by imposing sentence on allied offenses of similar import."

{¶34} A defendant who fails to raise the issue of allied offenses of similar import with the trial court forfeits all but plain error. *State v. Rogers*, 2015-Ohio-2459, ¶ 3. A reviewing court will not reverse such an error "unless it affected the outcome of the proceeding and reversal is necessary to correct a manifest miscarriage of justice." *Id.* The burden is on the appellant "to demonstrate a reasonable probability that the convictions are for allied offenses of similar import committed with the same conduct and without a separate animus." *Id.* In the absence of such a showing, an appellant "cannot demonstrate that the trial court's failure to inquire whether the convictions merge for purposes of sentencing was plain error." *Id.* "[A]n appellate court will not consider any error which counsel for a party complaining of the trial court's judgment could have called but did not call to the trial court's attention at a time when such error could have been avoided or corrected by the trial court." *State v. Awan*, 22 Ohio St.3d 120, 122 (1986), quoting *State v. Childs*, 14 Ohio St.2d 56 (1968), paragraph three of the syllabus.

{¶35} R.C. 2941.25 sets forth when a defendant may be convicted of multiple offenses:

(A) Where the same conduct by defendant can be construed to constitute two or more allied offenses of similar import, the indictment or information

may contain counts for all such offenses, but the defendant may be convicted of only one.

(B) Where the defendant's conduct constitutes two or more offenses of dissimilar import, or where his conduct results in two or more offenses of the same or similar kind committed separately or with a separate animus as to each, the indictment or information may contain counts for all such offenses, and the defendant may be convicted of all of them.

{¶36} Courts apply the following three-part test to determine whether a defendant can be convicted of multiple offenses:

[W]hen determining whether offenses are allied offenses of similar import within the meaning of R.C. 2941.25, courts must ask three questions when defendant's conduct supports multiple offenses: (1) Were the offenses dissimilar in import or significance? (2) Were they committed separately? and (3) Were they committed with separate animus or motivation? An affirmative answer to any of the above will permit separate convictions. The conduct, the animus, and the import must all be considered.

State v. Ruff, 2015-Ohio-995, ¶ 31.

{¶37} In this case, Appellant pled guilty to eight counts of Rape, six relating to E.T. and two relating to J.T. Appellant did not raise the issue of allied offenses of similar import during his sentencing hearing. By failing to seek the merger of his convictions as allied offenses of similar import, Appellant has forfeited all but plain error for review.

{¶38} Appellant has the burden of demonstrating a reasonable probability that the trial court sentenced him to allied offenses of similar import by sentencing him on separate offenses for the same conduct committed without a separate animus. However, he has not identified how or why the individual counts to which he pled guilty were allied offenses. He has not affirmatively asserted that any of the counts involved the same conduct committed without a separate animus. Instead, Appellant has merely made the blanket assertion that the "indictment alleges only a date range for the offenses and there is nothing in the record to differentiate conduct in Count One from the conduct alleged in

the other first six counts. Similarly, there is nothing to differentiate the conduct alleged in Count Eleven from the allegations in Count Twelve.”

{¶39} However, in criminal cases, the essential elements of an offense do not require proof of precise dates and times when they occurred. *In re J.D.*, 2022-Ohio-2334, ¶ 25 (11th Dist.). Proof of specific dates, times, and locations in sexual abuse cases involving children is especially difficult, and “[t]he problem is compounded where the accused and the victim are related or reside in the same household, situations which often facilitate an extended period of abuse.” *Id.* at ¶ 26, quoting *State v. Scott*, 2020-Ohio-3230, ¶ 40 (12th Dist.). Therefore, proof of specific dates and times of an offense may be inexact so long as the failure to establish an offense occurred within a specific time frame would not prejudice the defendant or otherwise deny the right to a fair trial. *Id.* Appellant’s argument on this issue is unconvincing because the lack of differentiation in the indictments, in itself, does not demonstrate a reasonable probability that the trial court sentenced Appellant to allied offenses of similar import.

{¶40} Further, each distinct act of sexual activity constitutes a separate crime with a separate animus, and the offenses are not allied offenses of similar import regardless of whether they are committed in the course of the same individual encounter. *State v. Mack*, 2023-Ohio-4374, ¶ 68 (11th Dist.). As to the six counts relating to E.T., the State provided an explanation of circumstances indicating that Appellant had sex with E.T. “multiple times in this house and even before this house. She described the sex acts in the bedroom, bathroom and basement.” The assertion that sexual conduct occurred “multiple times in this house and even before this house” indicates that that there were multiple instances of sexual conduct Appellant committed in both E.T.’s current and

former residence. Further, the State identified that the sexual conduct occurred in the bedroom, bathroom, and basement. Therefore, the State identified that the criminal conduct occurred: (1) “multiple times”; (2) in three rooms; and (3) in two different houses. While we could parse the State’s summary of criminal conduct in various ways to arrive at either more than or fewer than six distinct offenses, given Appellant’s failure to call this issue to the trial court’s attention at sentencing, his burden on appeal to demonstrate a reasonable probability that the trial court sentenced him to allied offenses of similar import, and his failure to address how any possible error affected the outcome of the proceeding, we decline to find plain error as to the counts relating to E.T.

{¶41} As to the two counts relating to J.T., the State indicated that Appellant had engaged in anal intercourse and fellatio with J.T. Each of these acts constituted a distinct sexual activity and therefore at least two separate crimes each with a separate animus.

{¶42} Given the above, Appellant has not demonstrated that the trial court sentenced him to allied offenses of similar import.

{¶43} Accordingly, Appellant’s second assignment of error is without merit.

{¶44} For the foregoing reasons, the judgment of the Ashtabula County Court of Common Pleas is affirmed.

EUGENE A. LUCCI, J.,

ROBERT J. PATTON, J.,

concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this court, Appellant's assignments of error are without merit. It is the judgment and order of this court that the judgment of the Ashtabula County Court of Common Pleas is affirmed.

Costs to be taxed against Appellant.

JUDGE JOHN J. EKLUND

JUDGE EUGENE A. LUCCI,
concur

JUDGE ROBERT J. PATTON,
concur

THIS DOCUMENT CONSTITUTES A FINAL JUDGMENT ENTRY

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