

IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CLARK COUNTY

STATE OF OHIO

Appellee

v.

MATTHEW MCGRAW

Appellant

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C.A. No. 2025-CA-61

Trial Court Case No. 23CR0549

(Criminal Appeal from Common Pleas
Court)

**FINAL JUDGMENT ENTRY &
OPINION**

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Pursuant to the opinion of this court rendered on September 25, 2026, the judgment of the trial court is affirmed.

Costs to be paid as stated in App.R. 24.

Pursuant to Ohio App.R. 30(A), the clerk of the court of appeals shall immediately send a copy of the court's ruling to each party and note that action on the docket. Additionally, pursuant to App.R. 27, the clerk of the court of appeals shall send a certified copy of this judgment, which constitutes a mandate, to the clerk of the trial court and note the service on the appellate docket.

For the court,



MARY K. HUFFMAN, JUDGE

LEWIS, P.J., and HANSEMAN, J., concur.

OPINION
CLARK C.A. No. 2025-CA-61

RICHARD L. KAPLAN, Attorney for Appellant
JOHN M. LINTZ, Attorney for Appellee

HUFFMAN, J.

{¶ 1} Matthew McGraw appeals from his convictions for aggravated burglary and domestic violence, which followed his guilty pleas. For the reasons set forth below, we affirm.

I. Factual and Procedural Background

{¶ 2} On August 22, 2023, an indictment was returned against McGraw for aggravated burglary (Count 1), strangulation (Count 2), domestic violence (Count 3) and felonious assault (Count 4). The victim in each of the counts was the mother of McGraw's children, C.B. After pretrial proceedings and a change in defense counsel as the result of counsel's prior representation of the victim, the matter was scheduled for jury trial with McGraw's new counsel, M.B., representing him. M.B. subsequently moved to withdraw as counsel, indicating that McGraw wished to have new counsel again appointed for him. On July 30, 2025, the court held a hearing on the motion. At the hearing, McGraw acknowledged that he wanted the court to appoint new counsel to represent him. The State expressed concern that McGraw was attempting to delay the scheduled trial and that the matter had been pending since 2023. The State indicated that it had made an offer for McGraw to enter a guilty plea to aggravated burglary and felonious assault, with a total prison sentence of four-and-a-half years. The State advised the court that if the trial were continued, the State would withdraw the offer and make no future or further plea offers to resolve the pending charges. The trial court informed McGraw that it would grant M.B.'s request to withdraw as counsel but questioned whether he was engaging in delaying or

stalling tactics. The trial court advised McGraw that it would appoint new counsel but further stated that it did not intend to provide a future opportunity to change counsel. M.B. then advised the court that McGraw had made a statement to him, which resulted in an off-the-record discussion between the court and counsel.

{¶ 3} A brief recess ensued, and when the proceedings resumed, the court stated that it had been advised that a negotiated plea had been reached and that it would thus withhold its decision on M.B.'s motion to withdraw as counsel.

{¶ 4} The prosecutor recited the plea agreement reached during the recess in the proceedings. Under the agreement, McGraw agreed to plead guilty to Count 1 of the indictment, aggravated burglary, and Count 3, domestic violence. There was an agreement that McGraw would be sentenced to a prison term of four and a half to six years.

{¶ 5} The court then engaged in a thorough plea colloquy with McGraw. He entered pleas of guilty to count one, aggravated burglary, and count three, domestic violence, and the court sentenced McGraw in accordance with the plea agreement.

{¶ 6} McGraw appeals.

II. Analysis

{¶ 7} McGraw asserts two assignments of error:

I. THE GUILTY PLEA AS TAKEN IN OPEN COURT DOES NOT CONFORM TO THE WRITTEN GUILTY PLEA; THEREFORE VIOLATING MR. MCGRAW'S CONSTITUTIONAL DUE PROCESS RIGHTS.

II. MR. MCGRAW'S GUILTY PLEA WAS NOT KNOWING, INTELLIGENTLY, AND VOLUNTARILY ENTERED.

Because McGraw's assignments of error both relate to whether his guilty pleas were knowing, intelligent, and voluntary, we consider them together.

{¶ 8} To be constitutionally valid and to meet due process considerations, a guilty plea must be entered knowingly, intelligently, and voluntarily. *State v. Bateman*, 2011-Ohio-5808, ¶ 5 (2d Dist.), citing *Boykin v. Alabama*, 395 U.S. 238 (1969). “If a defendant’s guilty plea is not knowing and voluntary, it has been obtained in violation of due process and is void.” *State v. Brown*, 2012-Ohio-199, ¶ 13 (2d Dist.), citing *Boykin* at 243. “In considering whether a guilty plea was entered knowingly, intelligently and voluntarily, an appellate court examines the totality of the circumstances through a *de novo* review of the record to ensure that the trial court complied with constitutional and procedural safeguards.” *State v. Redavide*, 2015-Ohio-3056, ¶ 10 (2d Dist.), quoting *State v. Barner*, 2012-Ohio-4584, ¶ 7 (4th Dist.).

{¶ 9} “In order for a plea to be knowing, intelligent, and voluntary, the trial court must comply with Crim.R. 11(C).” *State v. Russell*, 2011-Ohio-1738, ¶ 6 (2d Dist.). “Crim.R. 11(C) governs the process that a trial court must use before accepting a felony plea of guilty.” *State v. Veney*, 2008-Ohio-5200, ¶ 8. “By following this rule, a court ensures that the plea is knowing, intelligent, and voluntary.” *State v. Cole*, 2015-Ohio-3793, ¶ 12 (2d Dist.), citing *Redavide* at ¶ 12.

{¶ 10} Crim.R. 11(C)(2) provides that a trial court may not accept a defendant’s guilty plea 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 trial at which the defendant cannot be compelled to testify against himself or herself.

{¶ 11} “A plea, if coerced or induced by promises or threats renders the plea involuntary.” *State v. Bodine*, 2023-Ohio-2197, ¶ 7 (3d Dist.), citing *State v. Lawson*, 2018-Ohio-4922, ¶ 20 (3d Dist.). “While advice or pressure by external influences, or the absence thereof, may be ‘ . . . probative of an accused’s motivation for pleading guilty, it does not necessarily show coercion, duress, or involuntariness.’” *State v. White*, 2004-Ohio-6474, ¶ 48 (11th Dist.), quoting *United States v. Pellerito*, 878 F.2d 1535, 1541 (1st Cir. 1989). A criminal defendant has no right to receive a plea offer from the State. *State v. Fletcher*, 2021-Ohio-1515, ¶ 13 (2d Dist.). By extension, the State may set the terms and conditions of a plea offer, including factors that may result in an expiration or withdrawal of any offer.

{¶ 12} We have reviewed the transcript of the plea and sentencing hearing, and the record confirms that the trial court’s Crim.R. 11 colloquy was thorough and complete.

{¶ 13} After the plea agreement was read into the record, McGraw acknowledged that he accepted the agreement. The court then engaged in a lengthy discourse with McGraw. McGraw acknowledged that he understood each of the court’s questions. The court advised McGraw that although it was not required to do so, it would impose the

sentence agreed to by the State and McGraw. The court thus told McGraw that he would not be sentenced to community control sanctions. The court advised McGraw that he would be subject to mandatory post-release control upon his release from prison, which would run for not less than two years nor more than five years. The court proceeded to advise McGraw of the constitutional rights that he would forfeit through his plea, including his right to trial by jury, to confront and cross-examine witnesses against him, to subpoena witnesses to testify on his behalf, and to require the State to prove his guilt beyond a reasonable doubt. Finally, the court advised McGraw that he could not be forced to testify against himself and that his silence could not be used against him. McGraw acknowledged his understanding that by entering a guilty plea he was giving up his constitutional rights, as detailed by the court.

{¶ 14} McGraw further acknowledged that he was 34 years old, that he was not under the influence of drugs, alcohol, or prescription medication, that he had completed a GED, that he could read and write, that he had sufficient time to talk with his attorney about his plea, and that he was satisfied with his attorney's representation. The court reviewed with McGraw the nature of each offense and the maximum penalties that could be imposed. The court noted that, under the plea agreement, McGraw would not be sentenced to community control sanctions.

{¶ 15} McGraw signed a paper plea form. The first page of the plea form indicates that he pleaded guilty to Count 1 (aggravated burglary) and Count 3 (domestic violence). On the second page of the form in the section summarizing the plea agreement, the form erroneously refers to the parties' recommended sentences for Counts 1 and 2. Otherwise, that section correctly states all the terms of his plea agreement, including that McGraw pleaded "to count 1 and to count 3 of the indictment."

{¶ 16} The trial court also engaged in the following discussion with McGraw:

THE COURT: Are you admitting in Count One, that on or about August 10, 2023, and in Clark County, Ohio, you did by force, stealth, or deception trespass in an occupied structure, or a separately secured or separately occupied portion of an occupied structure when another person, other than an accomplice of the offender was present, with the purpose to commit therein a criminal offense, and the Defendant inflicted or attempted, or threatened to inflict physical harm to another in violation of Section 2911.11(A)(1) of that Revised Code. Is that what you're admitting to in Count One, sir?

DEFENDANT: Yes.

THE COURT: In Count Three, domestic violence. Are you admitting that on or about August 10, 2023, and in Clark County, Ohio, you did knowingly cause or attempt to cause physical harm to a family or household member, having previously been convicted of domestic violence in Clark County Municipal Court in Case No. 14-CRB-4512, which is a violation of Section 2919.25(A). Is that what you're admitting to in Count Three, sir?

DEFENDANT: Yes.

Later during the plea hearing, the court again referred specifically to the two counts to which McGraw was entering pleas:

THE COURT: Mr. McGraw, I will ask you then with everything that we have gone over on the record here today, and everything that was in the plea document that you reviewed, do you want the Court to accept your pleas of

guilty to aggravated burglary, a felony of the first degree, and domestic violence, a felony of the fourth degree, sir?

DEFENDANT: Yes.

{¶ 17} McGraw acknowledged that he understood the proceedings, that he understood the nature of the charges against him and the maximum potential penalties, that his plea of guilty was a complete admission of his guilt, that no one had threatened him or made any promises other than those placed on the record, and that he was entering a plea of his own volition.

{¶ 18} In his first assignment of error, McGraw claims that there is confusion related to whether he was convicted of Count 1 (aggravated burglary), Count 2 (strangulation), and Count 3 (domestic violence), thereby necessitating that the matter be remanded for a new sentencing hearing. McGraw does not explain how his pleas were affected by the error in the written plea agreement. The record contains numerous references to the correct count numbers and charges to which McGraw was pleading. A single scrivener's error in the identity of the count numbers did not diminish the knowing, intelligent, and voluntary nature of his plea.

{¶ 19} The plea agreement, the court's plea colloquy with McGraw, and the sentencing entry all confirm that McGraw pleaded guilty to and was convicted of Counts 1 and 3. Those records further confirm that all remaining counts of the indictment were dismissed. The record provides no basis for confusion regarding the charges underlying McGraw's pleas and convictions.

{¶ 20} In his second assignment of error, McGraw essentially claims that the State intended to threaten him in order to obtain a plea. He points to the State's remark that if the trial had been continued upon the grant of M.B.'s motion to withdraw as counsel, it would

have withdrawn its plea offer and would not have made any future offers. He requests that his convictions be reversed and that the matter be remanded to the trial court. There is nothing in the record that reveals that McGraw was coerced or threatened at the time of his plea. McGraw's argument is belied by his acknowledgement at the plea hearing that he was entering his pleas voluntarily and that he had not been threatened by any person to do so. Every criminal defendant pleading to a charge likely experiences some internal conflict or pressure related to the plea, particularly if a plea offer is subject to expiration or withdrawal by the State. See *generally State v. Minkner*, 2007-Ohio-5574 (2d Dist.). Because the State is under no obligation to make a plea offer and can, thus, set the terms and conditions of any offer, an assertion by the State that it would withdraw a plea offer or decline to make future offers simply is insufficient to be considered threatening or coercive conduct that could potentially render a plea less than knowing, intelligent, and voluntary.

{¶ 21} Based on the record before us, McGraw has failed to demonstrate that his pleas were made less than knowingly, intelligently, and voluntarily or that his right to due process was compromised. Accordingly, his assignments of error are overruled.

III. Conclusion

{¶ 22} Having overruled McGraw's assignments of error, the judgment of the Clark County Common Pleas Court is affirmed.

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LEWIS, P.J., and HANSEMAN, J., concur.