

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

STATE OF OHIO

Appellee

v.

DEWAYNE BROWN

Appellant

:
:
:
:
:
:
:
:
:
:
:

C.A. No. 2026-CA-25

Trial Court Case No. 25-CR-0691(A)

(Criminal Appeal from Common Pleas
Court)

**FINAL JUDGMENT ENTRY &
OPINION**

.....

Pursuant to the opinion of this court rendered on October 9, 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,



MICHAEL L. TUCKER, JUDGE

LEWIS, P.J., and HUFFMAN, J., concur.

OPINION
CLARK C.A. No. 2026-CA-25

THOMAS W. KIDD, JR., Attorney for Appellant
JOHN M. LINTZ, Attorney for Appellee

TUCKER, J.

{¶ 1} Dewayne Brown appeals from his conviction following a guilty plea to cocaine trafficking, a second-degree felony.

{¶ 2} Brown challenges the validity of his plea. He contends the record does not reflect a voluntary plea. Because the plea-hearing transcript persuades us that his plea was voluntary, we affirm the trial court's judgment.

I. Background

{¶ 3} A grand jury indicted Brown on two first-degree felony drug offenses. He later agreed to plead guilty to cocaine trafficking as a second-degree felony in exchange for dismissal of the other charge and a jointly recommended prison term. During Brown's plea hearing, the trial court recited the agreement, obtained his acknowledgment that he wanted to plead guilty, and determined that he was not under the influence of drugs or alcohol. The following exchange then occurred:

THE COURT: Have there been any other promises made to you that I haven't mentioned?

THE DEFENDANT: No.

THE COURT: Has anyone threatened or pressured you into pleading guilty?

THE DEFENDANT: No.

THE COURT: Are you entering this guilty plea voluntarily?

THE DEFENDANT: No.

THE COURT: Are you doing this of your own free will?

THE DEFENDANT: Yes.

THE COURT: Okay. Pursuant to the terms of the agreement, upon your guilty plea, the Court will accept it, find you guilty, and proceed with sentencing this morning; do you understand that?

THE DEFENDANT: Yes.

March 9, 2026, Tr. 8-9.

{¶ 4} The trial court proceeded to advise Brown of the potential penalties, the constitutional rights he was waiving, and other matters. Finding that “the Defendant has knowingly, voluntarily, and intelligently waived his rights and entered a plea of guilty,” the court then accepted the plea. It imposed the recommended prison sentence and a fine. This appeal followed.

II. Analysis

{¶ 5} Brown’s sole assignment of error states:

The trial court erred in accepting appellant’s guilty plea where the record fails to demonstrate that the plea was made voluntarily, as required by Crim.R. 11(C)(2), in violation of appellant’s rights under the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution and Article I, Sections 10 and 16 of the Ohio Constitution.

{¶ 6} Brown notes that Crim.R. 11(C)(2)(a) assures compliance with due process by requiring a trial court to determine that a defendant’s plea is voluntary. He argues that a trial court must do more than ask the question. Brown contends that is particularly true here because he answered “no” when asked whether his plea was voluntary. He maintains that

the trial court should have inquired further rather than rephrasing the question, asking about his “own free will,” and obtaining a different answer. Brown further asserts that his written plea form, which contained an affirmation of voluntariness, did not cure the deficiency.

{¶ 7} Brown additionally claims the record reasonably calls into question the voluntariness of his plea, which he entered one day before his scheduled trial. He notes that he sent two letters to the clerk’s office seeking new counsel. He also requested new counsel on the morning of his plea. The basis for these requests was Brown’s assertion that his first communication with his attorney had been the prior weekend. He argues that the trial court’s refusal to appoint new counsel was relevant to the voluntariness of his plea. He stresses too that the State’s plea offer came just hours before his plea hearing and one day before his scheduled trial. He contends that the voluntariness of his plea was suspect because he “was required to make a decision of profound consequence—whether to waive his right to a jury trial on the eve of that trial—in an interval of less than two hours, following five months of minimal attorney contact, and after having formally registered his dissatisfaction with that attorney in writing.”

{¶ 8} We begin our review by recognizing that constitutional due process requires a plea to be entered voluntarily. *State v. Anderson*, 2026-Ohio-3358, ¶ 5 (2d Dist.). The same requirement is found in Crim.R. 11(C)(2)(a), which obligates a trial court to “determine that the defendant is making the plea voluntarily before accepting a guilty or no-contest plea.” *State v. Gowdy*, 2025-Ohio-5575, ¶ 36. Voluntariness requires a plea to be the defendant’s “own choice.” *Id.* at ¶ 37. It cannot be coerced by agents of the state using “actual or threatened physical harm” or “mental coercion overbearing the will of the defendant.” *Id.*, quoting *Brady v. United States*, 397 U.S. 742, 750 (1970).

{¶ 9} Without question, the better practice would have been for the trial court to inquire into Brown’s inconsistent responses when asked whether his plea was “voluntary” and whether it was of his “own free will.” But voluntariness is not determined solely by a defendant’s belief about whether his plea is voluntary. A defendant’s opinion on the issue is a legal conclusion that may or may not be accurate. That conclusion must be reached by evaluating all relevant circumstances surrounding the plea. *Id.*, quoting *Brady* at 749. This includes asking “questions in order to ascertain the voluntariness of [the] plea.” *State v. Knox*, 2002-Ohio-5017, ¶ 11 (7th Dist.).

{¶ 10} Here the trial court asked Brown, among other things, whether he was under the influence of drugs or alcohol, whether he wanted to enter a guilty plea, whether he understood the nature of the case and the facts placed on the record, whether anyone had threatened or pressured him into pleading guilty, and whether any promises had been made other than those in the plea agreement. Brown’s responses to these questions supported the trial court’s finding that his plea was voluntary under Crim.R. 11(C)(2)(a) notwithstanding the conflicting answers when he was asked whether his plea was “voluntary” and of his “own free will.”

{¶ 11} Brown’s arguments about the circumstances surrounding his plea fail to persuade us otherwise. He stresses that he pleaded guilty based on an offer made one day before trial—after speaking to his attorney once the prior weekend and after the trial court denied his request for new counsel. Although the last-minute nature of the State’s offer gave Brown limited time to decide, the record still reflects that the decision to accept the offer was his free choice. As for the trial court’s refusal to replace defense counsel, who allegedly only had contacted Brown once, he could have sought a continuance to give his attorney more time to prepare. If the trial court had denied the request, Brown could have raised that issue

on appeal, if necessary, along with a potential ineffective assistance claim and a challenge to the trial court's denial of his request for new counsel.

{¶ 12} We recognize that pretrial rulings may place a defendant in an uncomfortable predicament and force difficult choices between unsatisfactory options. But such rulings (even potentially erroneous ones) and circumstances do not necessarily render a guilty plea involuntary. *Gowdy*, 2025-Ohio-5575, at ¶ 41-44 (finding a guilty plea to be knowing, intelligent, and voluntary where the trial court complied with Crim.R. 11(C)(2) notwithstanding its potential misstatements of the law on other issues and its premature disinclination to give a self-defense jury instruction, which the defendant claimed coerced his plea); *State v. Cyphers*, 2026-Ohio-2200, ¶ 22-24 (2d Dist.) (finding the defendant's guilty plea voluntary where the trial court complied with Crim.R. 11(C)(2) despite a potentially erroneous pretrial ruling that the defendant claimed deprived him of his only viable defense and coerced his plea).

{¶ 13} Here Brown was able "to rationally weigh the advantages of going to trial against the advantages of pleading guilty." *Gowdy* at ¶ 42; *Cyphers* at ¶ 23. The record also does not reflect that the trial court engaged in any "overbearing" conduct that "clouded" his choice to plead guilty. *Id.* Finally, Brown has not identified any lack of compliance by the trial court with the various requirements of Crim.R. 11(C)(2)(a), (b), or (c). He does claim the trial court "failed to make the affirmative, on-the-record voluntariness determination that Crim.R. 11(C)(2) requires." But the trial court made that determination. When accepting his plea, it explicitly found that "the Defendant has knowingly, voluntarily, and intelligently waived his rights and entered a plea of guilty." Brown's real argument is that that the record fails to support the finding of voluntariness. For the reasons set forth above, that argument lacks merit. Accordingly, Brown's assignment of error is overruled.

III. Conclusion

{¶ 14} The judgment of the Clark County Common Pleas Court is affirmed.

.....

LEWIS, P.J., and HUFFMAN, J., concur.