[Cite as *State v. Gilbert*, 2026-Ohio-4305.]

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

STATE OF OHIO	:	
	:	C.A. No. 2026-CA-2
Appellee	:	
	:	Trial Court Case No. 24CR00212
v.	:	
	:	(Criminal Appeal from Common Pleas
ZACHERY S. GILBERT	:	Court)
	:	
Appellant	:	**FINAL JUDGMENT ENTRY & OPINION**

. . . . . .

Pursuant to the opinion of this court rendered on October 30, 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 EPLEY, J., concur.

OPINION
DARKE C.A. No. 2026-CA-2

CARL J. BRYAN, Attorney for Appellant
CHRISTOPHER P. LANESE, Attorney for Appellee

HUFFMAN, J.

{¶ 1} Zachary S. Gilbert appeals from his conviction of involuntary manslaughter with a firearm specification. He claims that his guilty plea was not knowing, intelligent, and voluntary. For the following reasons, the judgment of the trial court is affirmed.

Facts and Procedural History

{¶ 2} On October 24, 2024, Gilbert was indicted on one count of murder and one count of tampering with evidence. On December 19, 2025, Gilbert entered into a plea agreement pursuant to which he pleaded guilty to involuntary manslaughter with the firearm specification, and the remaining charge was dismissed. On February 2, 2026, the court sentenced Gilbert to an indefinite sentence of 11 to 16½ years for involuntary manslaughter and an additional 3-year term for the firearm specification. Gilbert appealed.

Assignments of Error and Analysis

{¶ 3} Gilbert asserts one assignment of error, arguing that his "guilty pleas were not made knowingly, voluntarily, and intelligently because the trial court failed to explain the maximum sentence possible." Specifically, he argues that "[a]t no point during the plea hearing was Mr. Gilbert advised that he face[d] a maximum penalty of [up] to nineteen and one-half years in prison." Gilbert claims that by "expressly informing him that the three to sixteen and one-half years for Count one, *includes* the three-year gun spec, the trial court failed to completely comply with the requirement that it determine that the defendant understood the maximum penalty involved." He argues that "at no point did the court verify

whether Mr. Gilbert understood what consecutive meant." Finally, Gilbert asserts, "[b]ecause of this complete failure, [he] need not demonstrate prejudice." The State responds that the court substantially complied with Crim.R. 11(C) such that his plea, "under the totality of the circumstances," was knowing, intelligent and voluntary.

{¶ 4} "Due process requires that a defendant's plea be made knowingly, intelligently, and voluntarily; otherwise, the defendant's plea is invalid." *State v. Bishop,* 2018-Ohio-5132, ¶ 10, citing *State v. Clark*, 2008-Ohio-3748, ¶ 25. Crim.R. 11(C) governs pleas of guilty in felony cases, and a "trial court's compliance with Crim.R. 11(C) ensures that a plea comports with due process." *State v. Perdue*, 2022-Ohio-722, ¶ 10 (2d Dist.).

{¶ 5} Crim.R.11(C)(2) states:

> (2) In felony cases the court may refuse to accept a plea of guilty or a plea of no contest, and shall not accept a plea of guilty or no contest without first addressing the defendant personally either in-person or by remote contemporaneous video in conformity with Crim.R. 43(A) 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 a trial at which the defendant cannot be compelled to testify against himself or herself.

{¶ 6} "Crim.R. 11(C)(2)(c) requires that a defendant be advised of certain constitutional rights, and strict compliance with this part of the rule is required." *State v. Jackson*, 2021-Ohio-4336, ¶ 7 (2d Dist.), citing *State v. Thompson*, 2020-Ohio-211, ¶ 5 (2d Dist.). "Where a trial court fails to strictly comply with Crim.R. 11(C)(2)(c), the defendant's plea should be deemed invalid on appeal." *Id.*

{¶ 7} Crim.R. 11(C)(2)(a) and (b) relate to nonconstitutional issues, and the "'defendant must affirmatively show prejudice to invalidate the plea where the trial court fails to comply fully with Crim.R. 11(C)(2)(a)-(b).'" *Jackson* at ¶ 8, quoting *State v. Dangler*, 2020-Ohio-2765, ¶ 14. To demonstrate prejudice resulting from partial noncompliance with Crim.R. 11(C)(2)(a) and (b), the defendant must show that he "'would [not] otherwise have entered the plea.'" (Bracketed text in original.) *Id.*, quoting *Thompson* at ¶ 5. If, however, a trial court completely fails to comply with Crim.R. 11(C)(2)(a) and (b), the defendant's plea should be invalidated on appeal, and a showing of prejudice is not required. *Id.* "'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.'" (Emphasis in original.) *State v. Redavide*, 2015-Ohio-3056, ¶ 10 (2d Dist.), quoting *State v. Barner*, 2012-Ohio-4584, ¶ 7 (4th Dist.).

{¶ 8} For involuntary manslaughter, a first-degree felony, Gilbert was subject to "an indefinite prison term with a stated minimum term selected by the court of three, four, five,

six, seven, eight, nine, ten, or eleven years and a maximum term that is determined pursuant to section 2929.144 of the Revised Code." R.C. 2929.14 (A)(1)(a). "If the offender is being sentenced for one felony and the felony is a qualifying felony of the first or second degree, the maximum prison term shall be equal to the minimum term imposed on the offender under division (A)(1)(a) . . . of section 2929.14 of the Revised Code plus fifty per cent of that term." R.C. 2929.144(B)(1). Pursuant to R.C. 2929.14(C)(1)(a), an offender sentenced for having a firearm while committing a felony shall serve any mandatory prison term consecutively to and prior to any prison term on the underlying felony conviction. Accordingly, Gilbert was subject to a maximum term of 16½ years for involuntary manslaughter plus an additional 3 years for the firearm specification.

{¶ 9} At the plea hearing, the court advised Gilbert that "[involuntary manslaughter] comes with a potential sentence of a mandatory prison term of 3 years minimum, 16 and a half years . . . maximum. . . . It also includes a mandatory consecutive three-year term on the gun spec." After the court next advised Gilbert that due to the mandatory nature of his sentence, he was subject to mandatory post-release control for two years, the court inquired, "So do you understand the potential consequences of your plea today?" Gilbert responded, "Yes, sir."

{¶ 10} Gilbert acknowledged reviewing and signing the plea form with counsel. The court asked, "To the extent there [are] words or language in that document that perhaps you are not familiar with, are you satisfied with [defense counsel's] explanation of this document to you?" Gilbert responded, "Yes, sir." The plea form clearly stated that Gilbert was subject to a maximum sentence of 16½ years, as well as a mandatory consecutive 3-year term for the firearm specification. Near the end of the plea hearing, the court again

asked Gilbert, “Do you have any questions with regards to your plea or its potential consequences?” Gilbert stated, “No, sir.”

{¶ 11} Pursuant to our de novo review of the totality of the circumstances of Gilbert’s plea, the record reflects that the court fully complied with Crim.R. 11(C)(2)(a) in expressly ascertaining Gilbert’s understanding of the maximum penalty involved, and the plea form and discussion thereof support this conclusion. The mandatory consecutive term for the firearm specification flows directly from R.C. 2929.14(C)(1)(a), such that the court had no discretion in the matter. In other words, the requirement operates independently of any explanation of the term “consecutive,” and the court was not required to define the term for Gilbert or to state the combined total of 19½ years. Because Gilbert’s plea was knowing, intelligent, and voluntary, his sole assignment of error is overruled.

Conclusion

{¶ 12} The judgment of the Darke County Common Pleas Court is affirmed.

. . . . . .

LEWIS, P.J., and EPLEY, J., concur.