

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
PICKAWAY COUNTY

STATE OF OHIO,	:	
	:	Case No. 24CA24
Plaintiff-Appellee,	:	
	:	
v.	:	<u>DECISION AND JUDGMENT</u>
	:	<u>ENTRY</u>
MARTY RAY DOTSON, JR.	:	
AKA: MARTY RAY DOTSON,	:	
	:	RELEASED: 10/16/2025
Defendant-Appellant.	:	

APPEARANCES:

Brian T. Goldberg, Cincinnati, Ohio, for appellant.

Jayme Hartley Fountain, Pickaway County Prosecuting Attorney, Circleville, Ohio, for appellee.

Wilkin, J.

{¶1} This is an appeal from a Pickaway County Court of Common Pleas judgment of conviction entry in which appellant, Marty Ray Dotson, Jr., pleaded guilty to one count of murder, an unclassified felony, and one count of voluntary manslaughter, a first-degree felony. The trial court imposed a prison term of 15 years to life for the murder conviction and ordered that sentence to be served consecutively to the voluntary manslaughter indefinite prison sentence of a minimum of 11 years to a maximum of 16.5 years. Dotson in two assignments of error challenges the validity of his guilty plea.

{¶2} In the first assignment of error, Dotson maintains that his guilty plea to voluntary manslaughter must be vacated because he was not informed of the maximum penalty he faced. This is because the trial court failed to notify him of

the mandatory postrelease control. As such, he did not knowingly, intelligently, and voluntarily enter his plea. The State concedes the trial court's complete failure to mention the mandatory postrelease control at the change of plea hearing, and similarly, asserts that Dotson's plea should be vacated and the matter remanded. We agree.

{¶3} In the second and final assignment of error, Dotson maintains that because the plea agreement involved both the murder and voluntary manslaughter offenses, the murder plea should similarly be vacated. The State disagrees and contends that Dotson is not challenging the validity of the murder guilty plea and does not contend that the trial court failed to comply with the mandatory notifications in Crim.R. 11(C) before accepting the murder guilty plea.

{¶4} We find that both guilty pleas must be vacated because they were part of a larger plea agreement.

FACTS AND PROCEDURAL BACKGROUND

{¶5} In October 2023, after three days of Dotson and his two friends, C.M. and D.T.W., excessively drinking alcohol and using drugs, Dotson stabbed them multiple times and slit their throats. Dotson also restrained the liberty of K.H. As a result of Dotson's conduct C.M. and D.T.W. died.

{¶6} Dotson was indicted for committing nine felonies involving the three victims. For the death of C.W. and D.T.W., Dotson was charged with four counts of murder, two counts of felonious assault, and two counts of abuse of a corpse. And for his conduct against K.H., he was charged with one count of kidnapping.

{¶7} Dotson initially pleaded not guilty to all nine offenses, but in March 2024, Dotson and the State reached a plea agreement. In exchange for dismissing seven counts, and amending one of the murder offenses involving D.T.W. to voluntary manslaughter, a first-degree felony, Dotson pleaded guilty to one of the murder offenses involving C.M. and to the amended voluntary manslaughter offense. The plea agreement also indicated that

No promises have been made except as part of this plea agreement stated entirely as follows: State will recommend a presentence investigation with an 11 year sentence on the Voluntary Manslaughter, consecutive to the Murder charge. Defendant may argue sentencing on the Voluntary Manslaughter.

{¶8} At the change of plea hearing, the trial court conducted a colloquy with Dotson and advised him that the maximum prison term for murder is 15 years to life, and with the voluntary manslaughter offense, it carries a maximum prison term of 11 to 16.5 years. The trial court did not mention that voluntary manslaughter includes mandatory postrelease control of up to five years and not less than two years.

{¶9} After explaining the maximum prison terms, the trial court advised Dotson of the constitutional rights he waives when he pleads guilty to the offenses. Dotson understood the rights, and then when asked how he pleads to the murder count, he said guilty. The same for voluntary manslaughter, Dotson indicated he is pleading guilty. The trial court accepted Dotson's guilty pleas and ordered a presentence investigative report ("PSI") and scheduled the matter for sentencing.

{¶10} At the sentencing hearing, the State, Dotson's counsel and Dotson

addressed the trial court. The State requested the maximum prison term for each offense and that the sentences be served consecutively. Dotson's counsel requested the minimum mandatory prison term so that Dotson has the opportunity for parole. Additionally, his counsel advised the trial court that Dotson is remorseful. Dotson also expressed remorse and apologized to the victims' families and his family. The trial court considered the required sentencing statutory provisions, the statements made at the hearing, and the PSI, and imposed a prison term of 15 years to life for the murder conviction, and a minimum prison term of 11 years to a maximum prison term of 16.5 years for the voluntary manslaughter conviction. The trial court ordered the sentences to be served consecutively. It is from this judgment of conviction entry that Dotson appeals.

ASSIGNMENTS OF ERROR

- I. THE TRIAL COURT ERRED TO THE PREJUDICE OF MR. DOTSON BY ACCEPTING A PLEA OF GUILTY THAT WAS NOT MADE KNOWINGLY, VOLUNTARILY, AND INTELLIGENTLY.
- II. MR. DOTSON DID NOT ENTER HIS PLEA OF GUILTY TO VOLUNTARY MANSLAUGHTER KNOWINGLY, VOLUNTARILY, AND INTELLIGENTLY, THEREFORE THE ENTIRE PLEA AGREEMENT MUST BE VACATED.

FIRST ASSIGNMENT OF ERROR

{¶11} In the first assignment of error, Dotson argues that the trial court erred to his prejudice by accepting his plea of guilty to the offense of voluntary manslaughter. This is because the trial court failed to properly advise Mr. Dotson of the maximum penalty he faced for voluntary manslaughter. The trial court did

not notify Mr. Dotson that postrelease control would be mandatory upon his release from prison. Mr. Dotson pleaded guilty to a first-degree felony, and pursuant to R.C. 2967.28(B)(2), he was subject to mandatory postrelease control of up to five years and not less than two years. According to Dotson, the trial court's complete failure to notify him of postrelease control warrants reversal of his guilty plea as not being knowingly, voluntarily, and intelligently entered.

{¶12} In response, the State concedes that the trial court failed to advise Dotson of the mandatory postrelease control sanction for the voluntary manslaughter offense. The State also agrees that this failure requires Dotson's plea to be vacated and the matter remanded to the trial court.

Law and analysis

{¶13} “ ‘When a defendant enters a plea in a criminal case, the plea must be knowingly, intelligently, and voluntarily. Failure on any of those points renders enforcement of the plea unconstitutional under both the United States Constitution and the Ohio Constitution.’ ” *State v. Veney*, 2008-Ohio-5200, ¶ 7, quoting *State v. Engle*, 74 Ohio St.3d 525, 527 (1996). To determine 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. Willison*, 2019-Ohio-220, ¶ 11 (4th Dist.), citing *State v. Cooper*, 2011-Ohio-6890, ¶ 35 (4th Dist.).

{¶14} “Crim.R. 11(C) governs the process that a trial court must use before accepting a felony plea of guilty[.]” *Veney* at ¶ 8. The trial court must

address the defendant and strictly comply with the provisions in Crim.R.

11(C)(2)(c) in which the court advises a defendant of all of the constitutional rights he waives by pleading guilty. *Id.* at syllabus; Crim.R. 11(C)(2).

{¶15} Strict compliance is not the standard with regard to the nonconstitutional notifications. Rather, “with respect to the nonconstitutional notifications required by Crim.R. 11(C)(2)(a) and 11(C)(2)(b), substantial compliance is sufficient.” *Veney*, 2008-Ohio-5200, at ¶ 14, citing *State v. Stewart*, 51 Ohio St.2d 86 (1977). “ ‘Substantial compliance means that under the totality of the circumstances the defendant subjectively understands the implications of his plea and the rights he is waiving.’ ” *Id.* at ¶ 15, quoting *State v. Nero*, 56 Ohio St.3d 106, 108 (1990).

{¶16} At issue here, is the notification in Crim.R. 11(C)(2)(a) which provides that the trial court must determine “that the defendant is making the plea voluntarily, with understanding of the nature of the charges and of the maximum penalty involved[.]” Dotson pleaded guilty to voluntary manslaughter as a first-degree felony. Thus, the indefinite maximum prison term is 11 years to 16.5 years, which the trial court advised him of. But Dotson’s sentence also included mandatory postrelease control of up to five years but not less than two years. See R.C. 2929.14(D)(1); R.C. 2967.28(B)(2). See *State v. Jones*, 2019-Ohio-303, ¶ 11 (2d Dist.), quoting *State v. Jones*, 2013-Ohio-119, ¶ 7 (2d Dist.) (“ ‘The ‘maximum penalty’ includes any mandatory post-release control sanction[.]’ ”).

{¶17} In the matter at bar, the trial court did not mention postrelease control at the change of plea hearing when advising Dotson of the maximum

penalty he faced for the voluntary manslaughter offense. By completely failing to mention postrelease control, the trial court did not substantially comply with the requirements of Crim.R. 11(C)(2)(a). In *State v. Sarkozy*, the Supreme Court of Ohio vacated Sarkozy's guilty plea

[b]ecause the trial court failed, before it accepted the guilty plea, to inform the defendant of the mandatory term of postrelease control, which was a part of the maximum penalty, the court did not meet the requirements of Crim.R. 11(C)(2)(a). A complete failure to comply with the rule does not implicate an analysis of prejudice.

2008-Ohio-509, ¶ 22.

{¶18} We similarly must vacate Dotson's guilty plea to voluntary manslaughter because he was not advised of the maximum penalty he faced. Dotson's first assignment of error is sustained and we remand the matter to the trial court.

SECOND ASSIGNMENT OF ERROR

{¶19} Dotson asserts that as presented in the first assignment of error, the plea to voluntary manslaughter must be vacated, and in return, the guilty plea to murder should also be vacated. He maintains that the invalid voluntary manslaughter plea is part of a larger plea agreement, so the entire plea should be vacated. Dotson concludes by maintaining that when both pleas are vacated, the parties shall be placed back in the position they were prior to entering the plea.

{¶20} The State in response argues that the maximum penalty to murder does not include postrelease control sanctions, and thus, can be separated from the voluntary manslaughter plea. Further, the State contends that Dotson is not

challenging the validity of the murder guilty plea and, therefore, we should affirm Dotson's murder conviction. The State asserts that Dotson's argument to now ignore his willingness to accept his responsibility for the murder offense is in contradiction to the principles and purposes of the justice system.

Law and analysis

{¶21} Dotson cites to three cases in support of his argument that his murder plea should also be vacated: *State v. Farley*, 2002-Ohio-1142 (1st Dist.); *State v. Cleland*, 2008-Ohio-1319 (9th Dist.); and *State v. Maggard*, 2011-Ohio-4233 (1st Dist.).

{¶22} Farley pleaded guilty to one count of rape involving a minor and one count of gross sexual imposition in exchange for removing the force element from the rape charge and dismissing a second gross sexual imposition charge and a kidnapping charge. *Farley* at * 1. During the change of plea hearing, the trial court failed to inform Farley that the rape offense makes him ineligible for probation or community control. *Id.* at * 2. The First District Court of Appeals vacated Farley's guilty plea to the rape offense, but their holding is not clear if all pleas were vacated:

In the present case, the trial court accepted Farley's guilty plea to the rape charge despite its failure to inform Farley that he was ineligible for probation or community control. Moreover, the plea form executed by Farley indicated that a prison term was not mandatory for the rape charge. At no point did the trial court inform Farley in accordance with Crim.R. 11(C)(2)(a) that he was ineligible for community control or probation.

Under the totality of the circumstances, we are not convinced that Farley understood that he was ineligible for community control or probation. Nor are we satisfied that Farley would have entered his guilty plea had the trial court complied with the rule. Noncompliance with Crim.R. 11(C)(2)(a) is not substantial compliance.

Therefore, we reverse the judgment of the trial court and remand this case for further proceedings consistent with law and this Decision.

Id.

{¶23} Cleland pleaded guilty to aggravated murder with prior calculation and design, aggravated burglary, and kidnapping, and in exchange, the State dismissed four murder charges. *Cleland*, 2008-Ohio-1319, ¶ 3-4 (9th Dist.). Postrelease control sanction is part of the maximum penalty for the aggravated burglary and kidnapping offenses. The trial court, however, at the change of plea hearing did not mention postrelease control. Accordingly, the Ninth District Court of Appeals held that the trial court failed to substantially comply with Crim.R. 11(C)(2) in advising Cleland of the maximum penalty he faced. *Id.* at ¶ 14. The Ninth District vacated Cleland's guilty pleas, including his plea to aggravated murder by applying contract law and finding that

Mr. Cleland pleaded guilty to the above two first degree felony charges as part of a larger plea agreement. The terms of that agreement called for Mr. Cleland to plead guilty to one count each of aggravated murder with prior calculation and design, aggravated burglary, and kidnapping. In return, the State agreed to recommend parole after 30 years. Ohio courts will generally apply contract law principles to issues involving plea agreements. *State v. Bethel*, 110 Ohio St.3d 416, 2006-Ohio-4853, at ¶ 50. For example, if, at the plea hearing, Mr. Cleland had refused to plead guilty to the aggravated burglary and kidnapping charges, the entire plea agreement would have failed because of his material breach. Because the trial court neglected to inform him he would be subject to post-release control as part of his sentences on those charges, both parties return to the stage immediately before he entered the pleas and can again determine whether to enter a plea agreement. Mr. Cleland is not unlike a minor who performs under a voidable agreement. See *Cassella v. Tiberio*, 150 Ohio St. 27, 31-32 (1948). The trial court's failure to advise him about post-release control, in effect, rendered the plea agreement voidable at his option. Vacating his pleas to the aggravated burglary and kidnapping charges voids the

entire plea agreement. Accordingly, his guilty plea to the aggravated murder charge must be vacated as well.

Id. at ¶ 15.

{¶24} Finally, Maggard pleaded no contest to six counts of rape, four counts of kidnapping, and four counts of abduction. *Maggard*, 2011-Ohio-4233, ¶ 1 (1st Dist.). During the change of plea hearing, the trial court failed to advise Maggard that by pleading no contest to rape he faced a mandatory prison sentence. *Id.* at ¶ 9-17. On the contrary, the trial court informed him that it was not a mandatory prison term. *Id.* at ¶ 9-17. The First District held that the trial court's misstatement as to the maximum penalty did not substantially comply with Crim.R. 11(C)(2) and vacated Maggard's no contest pleas to the six rape counts. *Id.* at ¶ 17. The First District rejected Maggard's argument to also vacate his guilty pleas to kidnapping and abduction because:

in Maggard's case, where no plea agreement existed between the state and Maggard, and Maggard pleaded no-contest to all the charges, errors that inured to only some of the counts do not automatically result in the reversal of the pleas on all counts, absent some showing that the defect should be treated more broadly. Therefore, we reverse Maggard's convictions for rape because the record does not support the conclusion that the pleas were knowingly entered. We point out that nothing in the record indicates that Maggard's decision to enter no-contest pleas to the other, independent counts in the indictment was unknowing. The record shows that Maggard was properly informed of the possible punishment he could receive by pleading no contest to the kidnapping and abduction charges.

Id. at ¶ 22.

{¶25} In a more recent First District case, the court declined to vacate the unaffected guilty pleas. In *State v. Jackson*, as the jury was being selected, Jackson elected to change his plea to guilty to all indicted offenses. 2012-Ohio-

3348, ¶ 1 (1st Dist.). For one of the offenses, gross sexual imposition, the trial court did not inform Jackson of the Tier I sexual offender classification requirement. *Id.* Because of the trial court's failure, the First District held that Jackson did not enter a knowing plea and vacated that plea. *Id.* at ¶ 6. The First District, however, held that "this defect in no way impacts his pleas to the two counts of burglary. . . . So, while we must reverse Jackson's conviction as it relates to the charge of gross sexual imposition, we leave his convictions for burglary undisturbed." *Id.* at ¶ 7.

{¶26} Similarly, in *State v. Tancak*, a more recent Ninth District case, Tancak pleaded guilty to all of the charges included in the indictment. 2022-Ohio-880, ¶ 4 (9th Dist.). On appeal he challenged the validity of his guilty plea to failure to comply with an order or signal of a police officer because the trial court failed to inform him at the change of plea hearing that any prison sentence for that offense must be served consecutively to the other sentences. *Id.* at ¶ 12. The Ninth District agreed and vacated Tancak's plea to failure to comply with an order or signal of a police officer and remanded the matter to the trial court. *Id.* at ¶ 13. The court, however, did not vacate Tancak's guilty plea to the other offenses agreeing

with our sister district's holding in *State v. Maggard*. Here, the record is void of a plea agreement between Mr. Tancak and the State that would unify Mr. Tancak's plea to all of the charges against him. We find that while the trial court erred with respect to Mr. Tancak's plea to failure to comply, Mr. Tancak has not shown that the defect, as to that charge, should be treated more broadly.

Id. at ¶ 17.

{¶27} In the matter at bar, however, unlike the facts in *Maggard*, *Jackson* and *Tancak*, Dotson's guilty plea to murder and voluntary manslaughter were part of plea negotiations with the State. Dotson's case is similar to the facts in *Cleland* and Dotson's voluntary manslaughter guilty plea was part of a larger plea agreement.

{¶28} The State in exchange for Dotson's guilty plea to voluntary manslaughter, dismissed seven charges including two murder charges and amended one of the murder charges to the lesser offense of voluntary manslaughter. The sentence for the offenses was also discussed with the State informing Dotson it was going to request the maximum prison term for the voluntary manslaughter and recommend for that sentence to be served consecutively. The trial court found the State's sentence recommendation persuasive and sentenced Dotson to the maximum prison term of a minimum of 11 years to a maximum of 16.5 years for the voluntary manslaughter conviction and ordered that sentence to be served consecutively to the 15 years to life sentence for the murder conviction.

{¶29} Accordingly, we sustain Dotson's second assignment of error and vacate his guilty plea to murder and remand the matter to the trial court.

CONCLUSION

{¶30} Having sustained Dotson's two assignments of error, we vacate his guilty pleas and remand the matter to the trial court.

JUDGMENT IS REVERSED AND THE CAUSE IS REMANDED.

JUDGMENT ENTRY

It is ordered that the JUDGMENT IS REVERSED and the CAUSE IS REMANDED. Appellee shall pay the costs.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Pickaway County Common Pleas Court to carry this judgment into execution.

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

Smith, P.J. and Hess, J.: Concur in Judgment and Opinion.

For the Court,

BY: _____
Kristy S. Wilkin, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.