

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

STATE OF OHIO, : CASE NO. 24CA19  
Plaintiff-Appellee, :  
v. :  
WILLIAM GLENN COLLINS, : DECISION AND JUDGMENT ENTRY  
Defendant-Appellant. :

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APPEARANCES:

Christopher Pagan, Middletown, Ohio, for appellant<sup>1</sup>.

Jason Holdren, Gallia County Prosecuting Attorney, Gallipolis, Ohio, for appellee.

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CRIMINAL APPEAL FROM COMMON PLEAS COURT  
DATE JOURNALIZED:12-11-25  
ABELE, J.

{¶1} This is an appeal from a Gallia County Common Pleas Court judgment of conviction and sentence. William Collins, defendant below and appellant herein, raises one assignment of error for review:

“THE TRIAL COURT ERRED BY FAILING TO INFORM COLLINS THAT THE APPEAL WAIVER AND THE JOINTLY-RECOMMENDED SENTENCE, IF IMPOSED, WOULD PRECLUDE OR LIMIT THE ISSUES ON APPEAL.”

{¶2} In June 2023, a Gallia County Grand Jury returned an indictment that charged appellant with (1) one count of

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<sup>1</sup> Different counsel represented appellant during the trial court proceedings.

aggravated burglary in violation of R.C. 2911.11(A)(1), a first-degree felony, and (2) one count of felonious assault in violation of R.C. 2903.11(A)(1), a second-degree felony. Appellant entered not guilty pleas.

{¶3} On September 30, 2024, the trial court held a plea hearing at which appellee recited the plea agreement that (1) appellant would plead guilty to second-degree felonious assault, (2) the parties submitted a joint recommendation for appellant to serve five years in prison, and (3) appellee would dismiss count 1. The court conducted a Crim.R. 11 colloquy and advised appellant of his rights and the effects of his decision to plead guilty, reviewed the signed plea form and jury waiver, reviewed the facts and charges, and asked appellant if any drugs, alcohol, or mind-altering substances influenced him. The court advised and reviewed with appellant the constitutional rights he waived with his plea, including (1) the right to a jury trial, (2) the right to confront one's accusers, (3) the right to compulsory process to obtain witnesses, (4) the right to require appellee to prove guilt beyond a reasonable doubt, and (5) the privilege against compulsory self-incrimination. The court also explained the maximum penalties, postrelease control, and reminded appellant that the parties' sentencing recommendation did not bind the court's sentencing decision. Appellant expressed his understanding and agreement at each stage of the

plea colloquy and affirmed his execution of the written plea form. In addition, the court verified that appellant discussed the plea with his counsel and appellant acknowledged his satisfaction with counsel.

{¶4} Appellant then entered a guilty plea to the felonious assault charge in violation of R.C. 2903.11(A)(1), a second-degree felony. When asked what occurred that constituted the offense, appellant stated:

Well I'm guilty of going over to my sister's house or trailer and um, when he met me at the door I smelt the alcohol and I pushed him. As he went back he, he grabbed like a mattock handle or pick handle, it didn't have the, the head on it or nothing, we was wrestling on the floor with it. My daughter was screaming at me. And uh, when I picked him up with it and put him on the couch my sister's dog came in and grabbed him by the elbow. Now I, I hit him here in the forearm and in the shin bone. . . and when I seen the dog grabbed him it put me in shock because I'm thinking I, I lived in Iowa for like 20 years, I figured the dog would attack me you know, because they raised the dog. And I threw the thing behind me out the door and I told him, I said wow, I thought the dog would attack me besides you, you know. You all must have been fighting in here or something. And I thought, I didn't think I done that much damage but evidently I did, so I'm guilty for me and the dog.

{¶5} On November 18, 2024<sup>2</sup>, the trial court held a sentencing hearing. Appellee noted the "joint recommendation to the Court for Mr. Collins to receive five years of prison." In

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<sup>2</sup> Although the sentencing transcript cover page reflects a September 30, 2024 date, both the sentencing judgment entry and the transcript certificate indicate that the sentencing hearing occurred on November 18, 2024.

addition, appellee moved to dismiss Count One, and appellant agreed to pay the costs of the action. The court provided appellant an allocution, at which he said:

I'm very sorry that it turned out like it did. I didn't really think that I did that much damage. I thought the dog done most of it. I didn't really realize. Uh, my daughter is the one that got me and the dog off of him. She never put his hands on, put her hands on him. If I, if I could apologize to him I would because actually we've never had no problems before. I thought he was taking care of my sister. My sister called me down here because I wasn't living here at the time.

{¶6} After the trial court considered the record, counsel's statements, appellant's statement, the victim impact statement, the underlying plea agreement, appellant's record, the presentence investigation report, weighed the R.C. 2929.11 principles and purposes of sentencing and the R.C. 2929.12 seriousness and recidivism factors, the court concluded that the agreed sentence complied with the statutory mandates regarding sentencing and accepted the jointly recommended sentence. Thus, the court ordered appellant to (1) serve a minimum of 5 years to a maximum of 7½ years in prison, (2) serve a mandatory 18-month to 3-year postrelease control term, and (3) pay costs. This appeal followed.

I.

{¶7} In his sole assignment of error, appellant asserts that he did not enter a knowing, intelligent, and voluntary

plea. Specifically, appellant contends that the trial court failed to inform him of the R.C. 2953.08(D)(1) limited appeal waiver for jointly-recommended sentences. Appellee, however, contends that the trial court properly advised appellant of the due process rights he waived and that the trial court is not required to inform a defendant at a plea hearing that his or her appeal rights may be limited.

{¶8} “When a defendant enters a plea in a criminal case, the plea must be made knowingly, intelligently, and voluntarily.” *State v. Engle*, 74 Ohio St.3d 525, 527 (1996). “Failure on any one of those points renders enforcement of the plea unconstitutional under both the United States Constitution and the Ohio Constitution.” *Id.*; *State v. Dangler*, 2020-Ohio-2765, ¶ 10. “Ohio’s Crim.R. 11 outlines the procedures that trial courts are to follow when accepting pleas” to “ ‘ensur[e] an adequate record on review by requiring the trial court to personally inform the defendant of his rights and the consequences of his plea and determine if the plea is understandingly and voluntarily made.’ ” (Citation omitted.) *Dangler* at ¶ 11; *State v. Nero*, 56 Ohio St.3d 106, 107 (1990). Thus, if a defendant did not knowingly, intelligently, and voluntarily enter a plea, enforcement of that plea is unconstitutional. *State v. Leib*, 2024-Ohio-1081, ¶ 13 (4th Dist.). In general, appellate courts apply a de novo standard

of review when evaluating a plea's compliance with Crim.R. 11(C). *Nero* at 108-109. Moreover, a written waiver form signed by the accused constitutes strong evidence of a valid waiver. *State v. Clark*, 38 Ohio St.3d 252, 261 (1988); *State v. Earl*, 2024-Ohio-5682, ¶ 8 (4th Dist.).

Ohio Criminal Rule 11(C)(2) provides:

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.

{¶9} “When a criminal defendant seeks to have his conviction reversed on appeal, the traditional rule is that he must establish that an error occurred in the trial-court proceedings and that he was prejudiced by that error.” *Dangler* at ¶ 13. “The test for prejudice is ‘whether the plea would have otherwise been made.’ ” *Id.* at ¶ 16, citing *Nero* at 108. “Prejudice must be established ‘on the face of the record.’ ” *Id.* at ¶ 24, quoting *Hayward v. Summa Health Sys./Akron City Hosp.*, 2014-Ohio-1913, ¶ 26, quoting *Wagner v. Roche Laboratories*, 85 Ohio St.3d 457, 462 (1999).

{¶10} There are two exceptions to the prejudice requirement: First, “[w]hen a trial court fails to explain the constitutional rights that a defendant waives by pleading guilty or no contest, we presume that a plea was entered involuntarily and unknowingly, and no showing of prejudice is required.” *Dangler* at ¶ 14. Second, “a trial court’s *complete* failure to comply with a portion of Crim.R. 11(C) eliminates the defendant’s burden to show prejudice.” *Id.* at ¶ 15. “Aside from these two exceptions, the traditional rule continues to apply: a defendant is not entitled to have his plea vacated unless he demonstrates he was prejudiced by a failure of the trial court to comply with the provisions of Crim.R. 11(C).” *Id.* at ¶ 16. Further, in an

inquiry into whether a defendant has validly entered a plea, “the questions to be answered are simply: (1) has the trial court complied with the relevant portion 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?” *Id.* at ¶ 17.

{¶11} In addition to a duty to comply with Crim.R. 11, “the trial judge must convey accurate information to the defendant so that the defendant can understand the consequences of his or her decision and enter a valid plea.” *State v. Clark*, 2008-Ohio-3748, ¶ 26; *State v. Hutchinson*, 2025-Ohio-4637, ¶ 12 (11th Dist.). If the trial judge substantially misinforms a defendant about the consequences of the plea, “the defendant could not have entered the plea knowingly, intelligently, and voluntarily.” *Clark* at ¶ 39. “[T]he point of this principle is ‘[w]hen a defendant is induced to enter a guilty plea by erroneous representations as to the applicable law, the plea has not been entered knowingly and intelligently.’ ” *State v. Brownlee*, 2023-Ohio-1090, ¶ 17 (11th Dist.), quoting *State v. Mitchell*, 2006-Ohio-618, ¶ 15 (11th Dist.), citing *Engle, supra*, 74 Ohio St.3d at 527. “When material misinformation about a consequence of a guilty plea is conveyed to a defendant, and the court by its silence fails to correct the mistake, the failure



renders the plea less than knowing, intelligent, and voluntary.” *State v. Walz*, 2012-Ohio-4627, ¶ 17 (2d Dist.), citing *Engle*, *supra*; *State v. Mullins*, 2023-Ohio-803, ¶ 20 (8th Dist.).

{¶12} In the case sub judice, appellant contends that no evidence exists to show that the trial court apprised appellant of the appeal waiver in the plea colloquy or agreement. However, a trial court is not required to advise a defendant of his or her appellate rights at a plea hearing. “[T]he failure to inform a defendant that a guilty plea waives certain rights on appeal is not one of the specifically enumerated rights the trial court is required to discuss during the Crim.R. 11 colloquy.” *State v. Mauch*, 2025-Ohio-413, ¶ 7 (12th Dist.), citing *State v. Reynolds*, 2018-Ohio-4942, ¶ 12 (12th Dist.); *State v. Alvarez*, 2020-Ohio-5183, ¶ 23 (8th Dist.) (“Crim.R. 11(C) (2) does not contain any language requiring a trial court to inform defendants of their appellate rights, or lack thereof, before accepting a plea.”); *State v. Atkinson*, 2006-Ohio-5806, ¶ 22 (9th Dist.) (rejecting appellant’s claim “that his plea was not entered in a knowing, voluntary and intelligent manner because the trial court failed to advise him of his right to appeal at the plea hearing” as “the trial court had no duty to so advise appellant until the sentencing hearing”); *State v. Nicholas*, 2010-Ohio-1451, ¶ 26 (11th Dist.) (“[t]his obligation to advise a defendant of his right to appeal becomes operative

'after imposing sentence,' and has no bearing on the validity of a guilty plea."); *Hutchinson, supra*, at ¶ 16.

{¶13} Moreover, as appellee points out, appellant's September 12, 2024 signed written plea agreement contained the following language:

I understand by pleading guilty I give up my right to a jury trial our court trial, where I could confront and have my attorney question witnesses against me, and where I could use the power of the court to call witnesses to testify for me. I know at trial I would not have to take the witness stand and could not be forced to testify against myself and that no one could comment if I chose not to testify. I understand I waive my right to have the prosecutor prove my guilt beyond a reasonable doubt on every element of the charge, the right to confront and cross examine the State's witnesses who testify against my interest, and I waive my right to an appeal. (Emphasis added.)

{¶14} As noted above, in general any duty to advise a defendant of his or her right to appeal under Crim.R. 32(B)(2) does not arise until sentencing and has no bearing on the plea. *State v. Kauffman*, 2021-Ohio-1584, ¶ 18 (8th Dist.), citing *Alvarez* at ¶ 23.

{¶15} Further, R.C. 2953.08(D)(1) provides:

A sentence imposed upon a defendant is not subject to review under this section if the sentence is authorized by law, has been recommended jointly by the defendant and the prosecution in the case, and is imposed by the sentencing judge.

Thus, in the case sub judice, because the parties entered into a jointly recommended sentence, appellant could not appeal his sentence. *Kauffman* at ¶ 18; R.C. 2953.08(D)(1). We note,

however, that the trial court, pursuant to Crim.R. 32(B)(3), advised appellant of his general appellate rights at the sentencing hearing and in its sentencing entry. Moreover, appellant filed this timely appeal. Thus, regardless of whether the trial court failed to inform him of his appellate rights, he could not demonstrate how that failure prejudiced him. See *State v. Tornstrom*, 2023-Ohio-763, ¶ 52 (11th Dist.); *State v. Middleton*, 2005-Ohio-681, ¶ 25 (12th Dist.) (finding no reversible error when appellant failed to show prejudice from trial court's error regarding Crim.R. 32(B)(2) and (3)); *Hutchinson, supra*, at ¶ 17 (trial court duly advised defendant at sentencing of his Crim.R. 32(B) right to appeal and defendant appealed both his plea and sentence.).

{¶16} Thus, after our review in the present case, it appears that appellant signed a written guilty plea that explicitly acknowledged, among other things, that appellant waived his right to appeal. Moreover, at the plea hearing the trial court reviewed the plea agreement, verified appellant's competency and signature, reviewed the indictment, and read the statutory language of the offense. The court further referenced the agreed sentencing recommendation, advised appellant that the recommendation did not bind the court, and advised appellant of the maximum penalties, including postrelease control. After the trial court advised appellant of the constitutional rights that

he waived by his plea, one by one, and appellant stated that he understood each one, the court asked, "Then as to Count 2 . . . felonious assault, felony of the second degree how do you plead today?" Appellant replied, "I plead guilty, Your Honor." Thus, in addition to all of the reasons above, we also find no indication in the record that appellant was somehow induced to plead guilty by any consideration of his right to appeal his sentence. See *Hutchinson, supra*, at ¶18.

Accordingly, based upon the foregoing reasons, we overrule appellant's assignment of error and affirm the trial court's judgment.

JUDGMENT AFFIRMED.

## JUDGMENT ENTRY

It is ordered that the judgment be affirmed. Appellee shall recover of appellant the costs herein taxed.

The Court finds there were reasonable grounds for this appeal.

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

If a stay of execution of sentence and release upon bail has been previously granted by the trial court or this court, it is temporarily continued for a period not to exceed 60 days upon the bail previously posted. The purpose of a continued stay is to allow appellant to file with the Supreme Court of Ohio an application for a stay during the pendency of the proceedings in that court. If a stay is continued by this entry, it will terminate at the earlier of the expiration of the 60-day period, or the failure of the appellant to file a notice of appeal with the Supreme Court of Ohio in the 45-day appeal period pursuant to Rule II, Sec. 2 of the Rules of Practice of the Supreme Court of Ohio. Additionally, if the Supreme Court of Ohio dismisses the appeal prior to expiration of 60 days, the stay will terminate as of the date of such dismissal.

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

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

For the Court

BY: \_\_\_\_\_  
Peter B. Abele, 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.