

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

STATE OF OHIO,	:	
	:	Case No. 24CA30
Plaintiff-Appellee,	:	
	:	
v.	:	
	:	
JAMES LEONARD MORGAN, JR.,	:	DECISION AND JUDGMENT
	:	ENTRY
Defendant-Appellant.	:	
	:	RELEASED: 01/22/2026

APPEARANCES:

Angela Miller, Jupiter, Florida, for appellant.

Keller Blackburn, Athens County Prosecutor, and Merry M. Saunders, Assistant Athens County Prosecutor, Athens, Ohio, for appellee.

Wilkin, J.

{¶1} This is an appeal of an Athens County Court of Common Pleas judgment entry in which James Leonard Morgan, Jr. (“Morgan”) was convicted of a fifth-degree felony nonsupport of dependents. On appeal, Morgan asserts his guilty plea was not voluntary, knowing, and intelligent and therefore violated the Fifth and Fourteenth Amendments to the United States Constitution, Article I, Section 10 of the Ohio Constitution and Crim.R. 11(C). After reviewing the parties’ arguments, the record, and the applicable law, we find the trial court did not properly inform Morgan of his constitutional right to a jury trial. For that reason, we sustain the sole assignment of error and reverse the trial court’s judgment.

BACKGROUND

{¶2} On October 15, 2018, Morgan was charged with one count of nonsupport of dependents, a fifth-degree felony, in violation of R.C. 2919.21(B). He was arraigned on April 22, 2021, and entered a plea of not guilty with the assistance of counsel. On September 10, 2024, Morgan appeared for a change of plea hearing and entered a guilty plea to the indictment as charged. The trial court accepted Morgan's change of plea and entered a finding of guilty and proceeded immediately to sentencing. Morgan was sentenced to two years of non-reporting probation and ordered to comply with the Athens County Child Support Enforcement Agency's orders, as well as to pay court costs. It is this judgment entry that Morgan now appeals.

ASSIGNMENT OF ERROR

- I. APPELLANT MORGAN'S GUILTY PLEA WAS OBTAINED IN VIOLATION OF THE FIFTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND ARTICLE I, SECTION 10 OF THE OHIO CONSTITUTION AND CRIM.R. 11(C).

{¶3} In his sole assignment of error, Morgan argues that the trial court erred in accepting his guilty plea because it did not strictly adhere to Crim.R. 11(C)(2)(c). Specifically, Morgan claims that the court failed to inform him that he was waiving his constitutional right to a jury trial, only mentioning a "trial" in general terms. This omission rendered the plea invalid, as it was not made knowingly, voluntarily, and intelligently. Morgan asserts that strict compliance with Crim.R. 11(C)(2)(c) is necessary, and the court's failure to orally advise him

of his right to a jury trial during the plea colloquy resulted in a constitutionally deficient plea that must be vacated.

{¶4} The State argues that although the trial court did not use the exact phrase "jury trial" during the Crim.R. 11 colloquy when advising Morgan of his constitutional rights, the plea was still valid when considering the totality of the proceedings. The State relies on the Ohio Supreme Court case of *State v. Ballard*, 66 Ohio St.2d 473 (1981), paragraph two of the syllabus, which holds that failure to use the precise language is not grounds for vacating a plea so long as the rights are explained in a way reasonably understood by the defendant. The State details that during the plea hearing, the defendant and his counsel confirmed their understanding and agreement, and the judge ensured that Morgan was satisfied with his attorney and that his rights were understood—including those set out in the written plea form, which explicitly covered the right to a jury trial.

{¶5} The State further points out that at a prior hearing, Morgan was informed multiple times on the record that his case was set for a jury trial, demonstrating that he was made aware of this right. Additionally, the State emphasizes that Morgan both verbally and in writing waived his right to a jury trial, and the trial court followed all relevant procedures. The State concludes that the totality of the circumstances—encompassing repeated advisements, written acknowledgment, and compliance with plea colloquy rules—shows that Morgan's plea was made knowingly, voluntarily, and intelligently. Therefore, the State requests this court to overrule the assignment of error.

{¶6} Morgan responds by highlighting the fact that the State conceded that the trial court did not inform Morgan that he was waiving his right to a jury trial during the plea colloquy, instead relying on a prior discussion and a change of plea form, which Morgan argues is insufficient. Morgan contends that strict compliance with Crim. R. 11(C)(2)(c) is required, meaning the court must orally advise the defendant of each right during the plea colloquy, and cannot rely on other sources. The trial court's failure to specifically address the waiver of the right to a jury trial, as opposed to a general trial, invalidates the plea, as supported in *State v. Hermes*, 2023-Ohio-2011 (6th Dist.). Morgan asserts that the trial court did not obtain his oral acknowledgment of waiving his constitutional right to a jury trial, rendering the plea invalid. Consequently, Morgan requests that the court vacate his guilty plea and remand the matter to the trial court.

A. Law

1. Standard of Review

{¶7} “ ‘ “When a defendant enters a plea in a criminal case, the plea must be made 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. Betts*, 2017-Ohio-8595, ¶ 16 (4th Dist.), quoting *State v. Veney*, 2008-Ohio-5200, ¶ 7, quoting *State v. Engle*, 74 Ohio St.3d 525, 527 (1996). We determine whether a guilty plea is knowing, intelligent, and voluntary by applying “ ‘ “a de novo standard of review of the record to ensure that the trial court complied with the constitutional and procedural safeguards.” ’ ” *Id.*, quoting *State v. Leonhart*, 2014-Ohio-5601, ¶

36 (4th Dist.), quoting *State v. Moore*, 2014-Ohio-3024, ¶ 13 (4th Dist.). “[A]n appellate court conducts a de novo review, without deference to the trial court’s determination.” *State v. Blanton*, 2018-Ohio-1278, ¶ 50 (4th Dist.), citing *State v. Sufronko*, 105 App.3d 504 (4th Dist. 1995).

2. Crim.R. 11

{¶8} “ ‘Crim.R. 11(C)(2) governs the acceptance of guilty pleas by the trial court in felony cases and provides that a trial court should not accept a guilty plea without first addressing the defendant personally[.]’ ” *State v. Tolle*, 2022-Ohio-2839, ¶ 8 (4th Dist.), quoting Crim.R. 11(C)(2). The underlying purpose of Crim.R. 11 is to convey certain information to a defendant so that they can make a voluntary and intelligent decision regarding whether to plead guilty. *State v. Ballard*, 66 Ohio St.2d 473, 479-480 (1981).

{¶9} Most relevant here, Crim.R. 11(C)(2)(c) mandates that the court cannot accept a guilty plea without first addressing the defendant personally and completing the following steps:

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.

{¶10} “Failure to *literally* comply with the language of Crim.R. 11(C)(2)(c) does not, however, invalidate a plea agreement as long as the record reveals that the trial court explained or referred to the constitutional rights ‘ “ *in a manner reasonably intelligible to that defendant.*’ ” ’ ” (Emphasis in original.)

State v. Ralston, 2018-Ohio-4946, ¶ 5 (11th Dist.), quoting *Veney*, 2008-Ohio-5200, at ¶ 27, quoting *Ballard* at 480. However, pursuant to this strict compliance standard, “the trial court must *orally* inform the defendant of the rights set forth in Crim.R.11(C)(2)(c) during the plea colloquy for the plea to be valid[.]” (Emphasis added.) *Veney* at ¶ 29. “[T]he court cannot simply rely on other sources to convey these rights to the defendant.” (Emphasis added.). *Id.*

{¶11} “If the trial court fails to explain the constitutional rights that a defendant waives by pleading guilty or no contest, it is presumed that the plea was entered involuntarily and unknowingly, and no showing of prejudice is required.” *State v. Pierce*, 2024-Ohio-82, ¶ 11 (4th Dist.), citing *State v. Dangler* 2020-Ohio-2765, ¶ 14. Otherwise, “the defendant is not entitled to have the plea vacated without demonstrating prejudice.” *Id.* at ¶ 13.

B. Analysis

{¶12} During the Change of Plea Hearing on September 10, 2024, Morgan, with counsel, agreed to plead guilty to one count of nonsupport of dependents, a fifth-degree felony. The parties recommended three years of non-reporting probation, contingent on Morgan complying with child support orders. The court addressed Morgan about his decision to plead guilty and reviewed the constitutional rights he would waive, but did not specifically mention the waiver of his right to a jury trial. Rather, the trial court asked Morgan if he understood that he was giving up his “right to a trial?” At no point during the plea colloquy did the court orally inform Morgan he was waiving his right to a *jury* trial or reference a jury during the plea hearing. However, the trial court did reference Morgan’s

written plea agreement, signed by Morgan and counsel, which specifically stated all of the constitutional rights Morgan would be waiving, including his right to a jury trial.

{¶13} The State concedes the fact that during the plea colloquy, the trial court did not state the phrase “jury trial.” Nevertheless, the State, relying on *Ballard*, asserts that the trial court complied with Crim.R.11(C)(2)(c) because of the totality of the colloquy between the court, the defendant, and counsel i.e., the court made repeated references during the colloquy to the written plea agreement, which does in fact state that Morgan waives his right to a jury trial, and notes that Morgan was informed multiple times at a prior hearing, before the same judge, that his case could be set for a jury trial.

{¶14} As in our case, the trial court in *Ballard* did not specifically inform the defendant that, by pleading guilty, he was waiving his right to a jury trial. However, the Supreme Court in *Ballard* determined that the trial court explained the defendant’s constitutional right in a reasonable way because the trial court informed Ballard during the colloquy that neither the judge *nor the jury* could draw any inference if the defendant refused to testify. Then, immediately after that statement, the trial court informed the defendant that he was entitled to a fair and impartial trial under the law. Ballard responded to each question in the affirmative. These statements and answers, taken together, led the court to conclude that Ballard was informed of his right to a trial by jury.

{¶15} Unlike *Ballard*, Morgan was not orally informed during the plea colloquy that he was waiving his constitutional right to a jury trial, nor did the trial

court obtain his verbal acknowledgement of that specific waiver at the plea hearing. Instead, the State is relying on outside sources, which the Court in *Veney* has clearly established that the trial court cannot do. *Veney*, 2008-Ohio-5200, at ¶ 29. Additionally, this case is very similar to *State v. Hermes*, wherein the Sixth District determined that the trial court's references to the plea agreement were not sufficient when the trial court only advised Hermes of his right to "trial" as opposed to his right to a "jury trial." 2023-Ohio-2011, ¶24 (6th Dist.). "We cannot presume a waiver of these * * * important federal rights from a silent record." *Boykin v. Alabama*, 395 U.S. 238, 243 (1969). "When the record confirms that the trial court failed to perform this duty, the defendant's plea is constitutionally infirm, making it presumptively invalid." *Veney* at ¶ 29, citing *State v. Griggs*, 2004-Ohio-4415, ¶ 12, and *Ballard*, 66 Ohio St.2d at 481.

{¶16} In the present case, the trial court plainly failed to orally inform Morgan of his constitutional right to a jury trial. This failure to strictly comply with Crim.R.11(C)(2)(c) renders Morgan's plea invalid. Therefore, we sustain Morgan's sole assignment of error, reverse the trial court's judgment, and remand this case for further proceedings consistent with this opinion.

JUDGMENT REVERSED.

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 ATHENS COUNTY COURT OF COMMON PLEAS 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 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 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.