

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

STATE OF OHIO,	:	
	:	Case No. 25CA38
Plaintiff-Appellee,	:	
	:	
v.	:	<u>DECISION AND JUDGMENT</u>
	:	<u>ENTRY</u>
SHAWN D. LANE,	:	
	:	
Defendant-Appellant.	:	RELEASED: 10/09/2026

APPEARANCES:

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

Brigham M. Anderson, Lawrence County Prosecuting Attorney, and Steven K. Nord, Assistant Lawrence County Prosecuting Attorney, Ironton, Ohio, for appellee.

Wilkin, J.

{¶1} This is an appeal from a Lawrence County Court of Common Pleas judgment of conviction entry in which appellant, Shawn D. Lane, pleaded guilty to aggravated vehicular assault, a second-degree felony, and operating a motor vehicle while under the influence of alcohol or drugs (“OVI”), a first-degree misdemeanor. The trial court did not impose the jointly-recommended sentence and instead sentenced Lane to the indefinite prison term of a minimum of 5 years to a maximum of 7.5 years on the aggravated vehicular assault offense. The trial court, pursuant to the jointly-recommended sentence, ordered the prison term to be served concurrently with the 180-day jail term for the OVI offense.

{¶2} In his sole assignment of error, Lane maintains that his guilty plea was not made knowingly, intelligently, and voluntarily because the trial court at

the plea hearing indicated it would impose the jointly-recommended sentence for the aggravated vehicular assault of a minimum prison term of four years to a maximum prison term of six years. But that did not occur.

{¶3} We overrule Lane's assignment of error because the trial court advised him at the plea hearing that it was not bound by the jointly-recommended sentence. The trial court also informed Lane that it was inclined to impose the jointly-recommended sentence, however, only if Lane did not violate any of his bond conditions. Lane violated his bond conditions during the period between the plea hearing and sentencing. Therefore, at sentencing, after finding that Lane had violated his bond conditions and reiterating that it was not bound by the jointly-recommended sentence, the trial court imposed a sentence within the statutory range and within its discretion. Accordingly, we affirm Lane's judgment entry of conviction.

FACTS AND PROCEDURAL BACKGROUND

{¶4} In October 2024, while driving under the influence and under a suspended license, Lane struck the rear of a vehicle stopped at a traffic light on South 3rd Street, continued to drive striking a person operating a motorized wheelchair, and rear-ended another vehicle at the stop light at the intersection of 3rd Street and Vernon Avenue. Lane fled the scene, but was later apprehended in which he admitted to drinking four alcoholic beverages.

{¶5} As a result of his conduct, Lane was indicted of committing aggravated vehicular assault, a second-degree felony; OVI, a first-degree misdemeanor; and failure to stop after an accident, a fifth-degree felony. Lane

initially pleaded not guilty, but after several pre-trial hearings, he and the State reached a plea agreement.

{¶6} In April 2025, Lane pleaded guilty as charged to the aggravated vehicular assault and OVI offenses, and the State dismissed the third count, failure to stop after an accident. Additionally, Lane and the State advised the trial court that they reached a jointly-recommend sentence of a minimum prison term of 4 years to a maximum prison term of 6 years for the aggravated vehicular assault offense, to be served concurrently to 180-day jail term for the OVI offense.

{¶7} The trial court at the plea hearing questioned Lane if that was his understanding of the agreement. Lane stated that it was. The trial court then proceeded with a plea colloquy pursuant to Crim.R. 11(C). After accepting Lane's guilty plea to the two counts and dismissing the third count, the trial court confirmed that the parties waived the preparation of a pre-sentence investigative report, and scheduled the matter for sentencing.

{¶8} The sentencing hearing was held a couple of weeks later. At the beginning of the hearing, the trial court noted that the State filed a motion for bond revocation earlier that morning. The motion was based on Lane leaving the rehabilitation center without permission and admitting to consuming alcohol and smoking marijuana the prior day. In mitigation, Lane's counsel noted that Lane did not tamper with his monitoring device and surrendered peacefully to the officers. The trial court revoked Lane's bond, finding that he violated the conditions of his bond.

{¶9} The trial court then reiterated that it had informed Lane at the plea hearing that, if he failed to abide by the conditions of his bond, the court would be “unlikely to go along with the recommended sentence[.]” Lane’s counsel requested that the trial court honor the jointly-recommended sentence and repeated the mitigation factors that Lane did not damage his monitoring device and surrendered peacefully. Lane also apologized for his conduct. The trial court proceeded to sentence Lane to a minimum prison term of 5 years to a maximum of 7.5 years for the aggravated vehicular assault offense, to be served concurrently to the 180-day jail term for the OVI offense. Additionally, the trial court imposed the agreed minimum fine of \$525.00, ordered Lane to engage in mandatory drug and alcohol treatment, and imposed a seven-year unclassified driver’s license suspension.

{¶10} It is from this judgment of conviction entry that Lane appeals.

ASSIGNMENT OF ERROR

MR. LANE’S PLEA OF GUILTY WAS NOT ENTERED INTO KNOWINGLY, INTELLIGENTLY, AND VOLUNTARILY.

{¶11} Lane maintains that he did not enter his plea knowingly, intelligently, and voluntarily because the trial court did not impose the jointly-recommended sentence. The jointly-recommended sentence was for a prison term of a minimum of 4 years and a maximum of 6 years, but the trial court imposed 5 years and 7.5 years. Lane acknowledges that the trial court informed him that the court was not obligated to abide by the jointly-recommended sentence and that the court would “unlikely” abide by the agreed sentence if Lane violated the conditions of his bond. Lane, nonetheless, contends that he entered the guilty

plea with the understanding that the jointly-recommended sentence would be imposed, thus, once the trial court was going to deviate from imposing the jointly-recommended sentence, the court should have given Lane the opportunity to withdraw his plea. Accordingly, Lane requests that we either remand the case ordering the trial court to permit him to withdraw his plea or order the trial court to impose the jointly-recommended sentence.

{¶12} The State disagrees and maintains that Lane was informed that the trial court was not required to abide by the jointly-recommended sentence, and that he was warned that if he violated the terms of his bond, the court was not likely to impose the jointly-recommended sentence. Therefore, Lane was placed on notice demonstrating he entered his plea knowingly, intelligently, and voluntarily.

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. And it provides that a trial court

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.

Crim.R. 11(C)(2).

{¶15} 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). 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).

{¶16} “ ‘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). Moreover,

“ ‘[A] defendant who challenges his [or her] guilty plea on the basis that it was not knowingly, intelligently, and voluntarily made’ is generally not entitled to have [the] plea vacated unless [the defendant] demonstrates that he [or she] was prejudiced by the failure of the trial court to comply with the provisions of Crim.R. 11.” *Id.*, quoting *State v. Nero*, 56 Ohio St.3d 106, 108 (1990). “The test for prejudice is ‘ “whether the plea would have otherwise been made.” ’ ” *Id.* at ¶ 20, quoting *Dangler* at ¶ 16, quoting *Nero* at 108. “And prejudice must be established ‘ “ ‘on the face of the record.’ ” ’ ” *Id.*, quoting *Dangler* at ¶ 24, quoting *Hayward v. Summa Health Sys./Akron City Hosp.*, 2014-Ohio-1913, ¶ 26, quoting *Wagner v. Roche Laboratories*, 1999-Ohio-309, ¶ 21.

State v. Jones, 2026-Ohio-1952, ¶ 8 (4th Dist.).

{¶17} At issue here is the trial court’s decision to impose a harsher sentence rather than the jointly-recommended sentence. We first note that it is well-settled law that “[t]rial courts ‘are not bound by a jointly recommended sentence.’ ” *State v. Graham*, 2020-Ohio-1063, ¶ 12 (3d Dist.), quoting *State v. Underwood*, 2010-Ohio-1, ¶ 28. “A trial court ‘has full discretion to impose any sentence within the authorized statutory range[.]’ ” *State v. Mallory*, 2026-Ohio-1688, ¶ 43 (4th Dist.), quoting *State v. Chapman*, 2022-Ohio-2853, ¶ 76 (4th Dist.). And here, the trial court’s sentence is within the statutory range. See R.C. 2929.14(A)(2)(a).

{¶18} Lane and the State both cite to this court’s decision in *State v. Harp*, 2024-Ohio-2120 (4th Dist.), which we find supports our holding to affirm Lane’s plea and sentence. In *Harp* we held that

if it is determined that a trial court accepted a jointly recommended sentence and unequivocally agreed to impose it, and then imposes a harsher sentence than that agreed upon without warning a defendant that it might vary from the agreement if certain conditions are not met, then reversible error occurs which necessitates either remand for resentencing in accordance with the terms of the original plea agreement, or to allow the defendant to withdraw his guilty plea. However, no reversible error occurs when it is determined that a trial court sufficiently warned a defendant that a harsher sentence may be imposed than the one agreed upon if certain conditions are not met, or if certain conduct occurs, between the plea and sentencing hearings.

Id. at ¶ 24.

{¶19} And in the matter at bar, the record is clear that Lane was placed on notice that the trial court was not bound by the jointly-recommended sentence, but would impose the jointly-recommended sentence as long as Lane did not violate the conditions of his bond. At the change of plea hearing, the following exchange between the trial court and Lane occurred:

Court: And do you understand that while you and the State may have presented a recommendation for sentencing today that I'm not bound by any recommendation?

Defendant: Yes ma'am.

Court: Also, I want to be very clear that because I have set sentencing out till the 16th, in the event that you fail to comply with all the terms and conditions of your bond or you do not appear at your sentencing hearing on the 16th, it is unlikely that I will go along with the recommended sentence that was presented today. Do you understand that sir?

Defendant: Yes ma'am.

{¶20} And after receiving these notifications, Lane proceeded to plead guilty to both offenses. A couple of weeks later, at the sentencing hearing, the trial court was informed that Lane violated the conditions of his bond by leaving the rehabilitation center without permission, admitting to drinking alcohol, and smoking marijuana. After revoking Lane's bond, the trial court reiterated, "I do

believe that at the plea hearing that I did advise Mr. Lane that if he failed to comply with all the terms and conditions of his bond that I would be unlikely to go along with the recommended sentence that was recommended on the day of the plea hearing.” Neither party objected or disagreed with the trial court’s statement.

{¶21} And Lane being placed on notice that if he violated the terms of his bond, the trial court was not going to abide by the jointly-recommended sentence, is what distinguishes his case from the facts in *State v. Jordan*, 2024-Ohio-2361 (8th Dist.), which he cites supporting his argument to invalidate his plea. In *Jordan*, the Eighth District Court of Appeals found that the trial court at the plea hearing “advised Jordan that it had not promised him any particular sentence, including the sentence agreed to by the state[.]” but at the same time, the trial court “did not expressly reject the agreed, recommended sentence prior to accepting Jordan’s guilty plea[.]” *Id.* at ¶ 24, 31. Thus, the Eighth District found that Jordan “did not enter a knowing plea because the trial court imposed a substantially greater sentence than what was agreed and recommended without giving him an opportunity to withdraw his plea.” *Id.* at ¶ 33.

{¶22} In *State v. Dye*, we reiterated that the “ ‘[t]he touchstone for determining constitutional fairness in plea submissions is notice[.]’ ” 2025-Ohio-1973, ¶ 26 (4th Dist.), citing *Harp* at ¶ 24. And the record here demonstrates that the trial court was unequivocal in advising Lane of the court’s sentencing discretion, including, its inclination to impose the jointly-recommended sentence

conditioned on Lane abiding by the terms of his bond during the two-week period between the plea hearing and sentencing.

{¶23} Accordingly, we overrule Lane’s assignment of error and find that he entered his guilty plea knowingly, intelligently, and voluntarily.

CONCLUSION

{¶24} Having overruled Lane’s assignment of error, we affirm the trial court’s judgment entry of conviction.

JUDGMENT IS AFFIRMED.

JUDGMENT ENTRY

It is ordered that the JUDGMENT IS AFFIRMED and that appellant 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 Lawrence 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.

Hess, J.: Concur in Judgment and Opinion.

Judge Peter B. Abele concurred in the Judgment and Opinion prior to his death on September 25, 2026.¹

For the Court,

BY: _____
Kristy S. Wilkin, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 22, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.

¹ The Ohio Constitution requires the concurrence of at least two judges when rendering a decision of a court of appeals. Therefore, this announcement of decision is in compliance with constitutional requirements. See *State v. Pembaur* (1982), 69 Ohio St.2d 110.