

IN THE OHIO COURT OF APPEALS
FIFTH APPELLATE DISTRICT
GUERNSEY COUNTY, OHIO

STATE OF OHIO,

Plaintiff - Appellee

-vs-

BRANDEN M. SMITH,

Defendant - Appellant

Case No. 26CA000008

Opinion And Judgment Entry

Appeal from the Guernsey County Court of
Common Pleas, Case No. 24CR000225

Judgment: Affirmed

Date of Judgment Entry: August 21, 2026

BEFORE: William B. Hoffman; Craig R. Baldwin; Robert G. Montgomery, Judges

APPEARANCES: MARK A. PERLAKY, Assistant Prosecuting Attorney, for Plaintiff-Appellee; MICHAEL GROH, for Defendant-Appellant.

Baldwin, J.

{¶1} Appellant Branden M. Smith appeals his guilty plea, arguing that the trial court failed to adhere to the requirements of *North Carolina v. Alford*, 400 U.S. 25 (1970) when accepting his guilty plea. Appellee is the State of Ohio.

STATEMENT OF FACTS AND THE CASE

{¶2} The appellant was indicted on December 16, 2024, on one count of Felonious Assault in violation of R.C. 2903.11(A)(2) and (D)(1)(a), a felony of the second degree. The charge included a Repeat Violent Offender Specification (“RVO”) pursuant to R.C. 2941.149(A) due to a 2010 Felonious Assault conviction. The appellant, who was on post-

release control (“PRC”) at the time of the alleged offense, was appointed counsel, pleaded not guilty, and the matter was scheduled for trial.

{¶3} On March 18, 2025, the appellant, who maintained throughout the case that he was acting in self-defense, moved the trial court for the appointment of a forensic pathologist to assist in the preparation of his defense, particularly with regard to “the position of the victim and the [appellant] when the victim was stabbed.” The trial court granted the motion on March 24, 2025, authorizing the appellant to expend up to \$3,000.00 to retain Forensic Pathologist Willam Ralson as an expert to assist counsel in the effective investigation and preparation of the appellant’s case. Thereafter, on May 15, 2025, the appellant moved the trial court for a competency evaluation by a forensic psychologist, which the court granted on May 27, 2025. The report of the forensic psychologist was provided to the court, a hearing on the report was conducted on July 25, 2025, and on July 28, 2025, the court issued an Entry finding the appellant competent to stand trial.

{¶4} The trial began on October 28, 2025. Prior to voir dire the trial court inquired about plea offers and negotiations. The appellee advised the court that it had offered to agree to the following: the appellee would accept a plea to the felonious assault charge, either guilty, no contest, or *Alford* plea; the appellee would dismiss the RVO specification; the parties would each argue regarding sentencing; and, the appellee would not take a position on the issue of appellant’s PRC. Counsel for the appellant stated that he had a different understanding of what was contained in the plea offer and requested an opportunity to talk privately with the appellant, which the trial court granted.

{¶5} The appellant proceeded to an attorney-client room and conferred privately with his counsel, after which counsel met briefly with the trial court in chambers and advised that a plea agreement had been reached. The matter then proceeded as a plea hearing. A “Plea

of - *Alford* Plea” form was completed by the parties which provided that the appellant would plead guilty to one count of felonious assault in violation of R.C. 2903.11(A)(2), a felony of the second degree. The form listed a “Stated Minimum Prison Term (Range/Yrs.)” of 2-8 years, with a “Maximum Indefinite Term” of 4 years and a “Longest Possible Maximum” of 12 years, and noted the parties’ agreement that the RVO specification would be dismissed. The Plea form stated further that the parties would argue the issue of sentence at the sentencing hearing, and the appellee would remain silent as to PRC, with a PSI to be ordered. The *Alford* Plea form was signed by the appellant as well as his attorney. The trial court engaged in the requisite Crim.R. 11 colloquy with the appellant.

{¶6} In addition, the trial court engaged in the following exchange with the appellant:

THE DEFENDANT: I have a question.

THE COURT: Yes.

THE DEFENDANT: So in violation to PRC [sic], am I sentenced to PRC time?

THE COURT: All right. That’s a very good question. So let me explain to you how that works....

So to answer your question, by pleading here today guilty versus - - North Carolina versus *Alford*, that is a violation of your post-release control but it does not mean the Court has to automatically impose a sanction for that. Does that answer your question?

THE DEFENDANT: May I talk to my attorney about that?

THE COURT: Absolutely.

THE DEFENDANT: I don't understand the guilty. I thought it was no contest.

MR. BLAKESLEE: It's an Alford plea. It's a no contest Alford plea.

THE DEFENDANT: Okay. So for record [sic] - - I mean, I should talk to you for record [sic] - - so it should be it's no contest, then, it shouldn't violate my parole.

MR. BLAKESLEE: Well, if you want to do this or not [sic]? That - - that - -

THE COURT: Well, Mr. Smith, let me answer you - - I think I heard your question. If you plead no contest, is that still a violation of your post-release control, and it is.

THE DEFENDANT: Okay. I'm - - I'm just not aware of - - of - -

THE COURT: Sure.

THE DEFENDANT: - - the laws or how that - -

THE COURT: Well - -

THE DEFENDANT: - - works.

THE COURT: - - and that's why - - that's why we have these question-and-answer sessions. When you plead guilty pursuant to North Carolina versus Alford, you're - - you're not admitting your guilt. You're maintaining your innocence. But you're acknowledging that there is enough evidence, based on the testimony and evidence, that a jury could find you guilty of this charge. And you're also doing it to seek a lesser penalty. That is, the

repeat violent offender specification's going to be dismissed by the State. So does that - - does that help answer your question?

THE DEFENDANT: Yes.

THE COURT: Okay. So just so we're clear on that post-release control matter, so by pleading guilty here this morning, that could be a violation of your post-release control and the Court could impose an additional sanction against you. The sanction could be I can impose however much time you have left on post-release control or anything less than that or the Court could not impose any sanction for post-release control. It's pretty wide open for the Court at sentencing what the Court's choices are. Does that help answer your question?

THE DEFENDANT: Yes, Your Honor.

THE COURT: And when we come to sentencing, the State is not going to be recommending that you receive any sanction for post-release control. Mr. Blakeslee is going to be arguing in [sic] your behalf that you obviously would not receive a sanction for post-release control. But that decision is up to me as judge. Do you understand that?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Okay. And knowing all that, do you still wish to proceed with the terms of the negotiated plea?

THE DEFENDANT: Yes, Your Honor.

{¶7} The trial court then reviewed the elements of felonious assault with the appellant, after which the following exchange was had:

THE DEFENDANT: Am I agreeing to something? I don't - - I don't agree to that.

THE COURT: Well, I'm - - I'm getting to that in just a second. I understand you don't agree to that, but those are what the elements of that offense are. Do you understand what the elements are?

THE DEFENDANT: Yes.

THE COURT: Okay. Now, pursuant to North Carolina versus Alford, do you understand that, although you're maintaining your innocence, if you plead guilty, the Court may still find you guilty of this offense.

THE DEFENDANT: Yes, Your Honor.

THE COURT: And have you consulted with Mr. Blakeslee about this?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Okay. And is the reason or at least part of your reason for pleading guilty here today is to seek a lesser penalty by entering the plea at this time with the repeat violent offense specification being dismissed?

THE DEFENDANT: From what I know and understand, that I'm agreeing to a plea because there's a chance that I could end up with 16 to 20, 18 to 22 years.

THE COURT: Yes. And within the terms of the negotiated plea, the maximum penalty you would face would be significantly less than that. I'm going to go through maximum penalty in a minute. So do you understand that?

THE DEFENDANT: Yes.

THE COURT: And is that your reason for entering the plea pursuant to North Carolina versus Alford even though you're maintaining your innocence?

THE DEFENDANT: Yes.

THE COURT: Okay. And you understand that the Court will require the State to read sufficient facts in to [sic] the record so the Court may ensure there's a factual basis for your change of plea? Do you understand that?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Okay. And so you understand by pleading guilty, even under North Carolina versus Alford, the Court may enter a judgment of guilt against you and proceed to sentence you in accordance with law? Do you understand that?

THE DEFENDANT: One more time.

THE COURT: Sure. By pleading guilty pursuant to North Carolina versus Alford, the Court may enter - - still enter a judgment of guilt against you and proceed to sentence you in accordance with the law. Do you understand that?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Okay. Any questions so far, Mr. Smith?

THE DEFENDANT: No, Your Honor.

The trial court accepted the appellant's plea, ordered a PSI, and the matter was scheduled for sentencing.

{¶8} The sentencing hearing proceeded on January 27, 2026, at which time the court sentenced the appellant to a minimum sentence of 7 years up to a maximum of 10 ½ years in prison; and, imposed a 1-year sanction for the appellant’s PRC violation, mandatory, to be served prior to and consecutive to any sentence. Thus, the appellant’s aggregate sentence was 8 years (1 year of which is mandatory for the PRC violation) to 11 ½ years. The court entered a Judgment Entry of Sentence the same day memorializing the appellant’s sentence.

{¶9} The appellant filed a timely appeal, and sets forth the following sole assignment of error:

{¶10} “I. APPELLANT DID NOT KNOWINGLY, INTELLIGENTLY, AND VOLUNTARILY PLEAD GUILTY, PURSUANT TO A HEIGHTENED “ALFORD” REQUIREMENT.”

{¶11} The appellant argues that the trial court failed to conduct a proper *Alford* inquiry because he claimed innocence regarding the felonious assault charge as contained in the indictment; and, that its failure to do so requires reversal of his conviction on the felonious assault charge and remand to the trial court with instructions to conduct a proper *Alford* inquiry. We disagree.

STANDARD OF REVIEW

{¶12} The appellate standard of review of *Alford* pleas was discussed by the court in *State v. Hughes*, 2021-Ohio-111, (4th Dist.):

. . . A reviewing court will not reverse a trial court's decision to accept or reject a defendant's guilty plea unless the court abused its discretion. “Abuse of discretion” means that the court acted in an unreasonable, arbitrary, or unconscionable manner or employed a view or action that no conscientious judge could honestly have taken. *State v. Taylor*, 2017-Ohio-4395, 93 N.E.3d 1,

¶ 9 (4th Dist.). Any error by the trial court in accepting or rejecting a guilty plea is subject to a harmless error analysis and will not be reversed unless the defendant can show the error was prejudicial, which means it affected the outcome of the case. *Id.* at ¶ 14-16.

However, where a defendant contends that a guilty plea is invalid because the trial court failed to comply with nonconstitutional requirements of Crim.R. 11(C)(2)(a) and (b) or the constitutional requirements set out in Crim.R. 11(C)(2)(c) or imposed by *Alford, infra*, a reviewing court undertakes a de novo review. *State v. Cassell*, 2017-Ohio-769, 79 N.E.3d 588, ¶ 30 (4th Dist.) (“An appellate court determining whether a guilty plea was entered knowingly, intelligently, and voluntarily conducts a de novo review of the record to ensure that the trial court complied with the constitutional and procedural safeguards.”).

Id. at ¶¶ 5-6. The appellant submits that the trial court failed to conduct a proper *Alford* inquiry, and that he did not enter his plea knowingly, intelligently, and voluntarily. Accordingly, we review the matter de novo.

ANALYSIS

{¶13} This Court recently addressed the issue of *Alford* pleas in *State v. Huff*, 2026-Ohio-1645 (5th Dist.):

An *Alford* plea is a guilty plea accompanied by a contemporaneous protestation of innocence. *North Carolina v. Alford*, 400 U.S. 25, 91 S. Ct. 160, 27 L. Ed. 2d 162 (1970). As explained by the Second District Court of Appeals:

Because an *Alford* plea involves a rational calculation that is significantly different from the calculation made by a defendant who

admits guilt, the obligation of the trial judge with respect to accepting such a plea is correspondingly different. The trial judge must ascertain that, notwithstanding the defendant's protestations of innocence, the defendant has made a rational calculation that it is in his or her best interest to accept the plea bargain offered by the prosecutor.

Where the defendant interjects protestations of innocence into the plea proceedings and fails to recant those protestations, the trial court must determine that the defendant has made a rational decision to plead guilty despite a belief in his or her innocence. This requires, at a minimum, inquiry of the defendant concerning the reasons for entering the plea and may also require inquiry into the state's evidence to determine whether the likelihood of conviction is sufficiently great to justify the decision.

State v. Padgett, 67 Ohio App.3d 332, 338-339, 586 N.E.2d 1194, 2 Anderson's Ohio App. Cas. 104 (2d Dist. 1990).

Id. at ¶ 24. The *Huff* Court went on to state:

A court may accept an *Alford* plea if the record affirmatively demonstrates that:

1. the defendant's plea was not the result of coercion, deception, or intimidation,
2. counsel was present at the time the plea was entered,
3. counsel's advice was competent under the circumstances,
4. the defendant understood the nature of the charges, and

5. the defendant was motivated by a desire to obtain a lesser penalty or avoid the risk of trial.

State v. Piacella, 27 Ohio St.2d 92, 271 N.E.2d 852 (1971), paragraph one of the syllabus; *see also State v. Hutchison*, 2018-Ohio-200, ¶ 55, 104 N.E.3d 91 (5th Dist.).

Accordingly, when it affirmatively appears that a defendant seeks to enter an *Alford* plea, the trial court must conduct a more detailed Crim.R. 11 colloquy to determine the defendant's reasoning for pleading guilty despite maintaining innocence. *State v. McKinley*, 2015-Ohio-2436, ¶ 16 (5th Dist.), citing *State v. Hayes*, 101 Ohio App.3d 73, 654 N.E.2d 1348 (3d Dist. 1998); *see also State v. Grant*, 2023-Ohio-4614, ¶ 12 (5th Dist.); *State v. Marchak*, 2022-Ohio-2611, ¶ 37 (5th Dist.); *State v. Underwood*, 2018-Ohio-730, ¶ 18 (5th Dist.). In addition, the record must contain strong evidence of guilt before an *Alford* plea may be accepted. *McKinley*, ¶ 19, citing *State v. Scott*, 2001-Ohio-2098 (3rd Dist.).

Id. at ¶ 26-27.

{¶14} The record herein affirmatively establishes that the trial court ensured the appellant's plea was not the result of coercion, deception, or intimidation. The appellant's trial counsel was present at the time the plea was entered, and the appellant was even given time to consult with his attorney privately before entering his plea. The advice of the appellant's counsel was competent under the circumstances; indeed, the appellant's counsel had even successfully moved the court for authorization to hire a forensic pathologist to assist in the preparation of his defense, and to assist in establishing "the position of the victim and the [appellant] when the victim was stabbed." The trial court took great pains to ensure that

the appellant clearly understood the nature of the charge against him, and the potential sentence if the jury found him guilty. Finally, the appellant himself stated that he was motivated to enter his *Alford* plea, at least in part, by the possibility he might receive a harsher sentence if found guilty. Given the appellee's dismissal of the RVO specification as part of the plea agreement, the potential sentence the appellant faced was significantly less – a fact the appellant himself acknowledged during the plea hearing. Finally, the record demonstrates that the trial court ensured that a factual basis for accepting the appellant's plea was presented by the appellee. Therefore, we find the appellant's sole assignment of error to be without merit.

CONCLUSION

{¶15} Based upon the foregoing, we overrule the appellant's sole assignment of error, and affirm the judgment of the Guernsey County Court of Common Pleas.

{¶16} Costs to appellant.

By: Baldwin, J.

Hoffman, P.J. and

Montgomery, J. concur.