

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

STATE OF OHIO,

Plaintiff - Appellee

-vs-

MICHAEL A. HESTON,

Defendant - Appellant

Case No. 26 CA 000005

Opinion & Judgment Entry

Appeal from the Court of Common Pleas
of Knox County,
Case No. 25CR09-0196

Judgment: Affirmed

Date of Judgment: October 5, 2026

BEFORE: William B. Hoffman, Andrew J. King, and David M. Gormley, Judges

APPEARANCES: Charles T. McConville (Knox County Prosecuting Attorney) and Christine C. Williams (Assistant Prosecuting Attorney), Mount Vernon, Ohio, for Plaintiff-Appellee; Todd W. Barstow, Newark, Ohio, for Defendant-Appellant.

Gormley, J.

{¶1} Defendant Michael Heston argues in this appeal that his guilty pleas were not made knowingly, intelligently, and voluntarily because the trial court failed to advise him that (1) a guilty plea is a complete admission of guilt and (2) the trial court could proceed immediately to sentencing upon the acceptance of his pleas. Because Heston has shown no prejudice resulting from these alleged errors, we affirm the judgment in Heston’s case.

The Key Facts

{¶2} In January 2026, Heston pled guilty to two rape charges. During the plea colloquy in the courtroom, the trial judge did not tell Heston that a guilty plea is a complete admission of guilt. The judge also neglected to mention that if Heston did plead guilty and if the judge accepted those guilty pleas, the judge could impose sentences immediately.

{¶3} Heston did state on the record that the facts underlying both rape charges were true, and he also said that he was guilty of committing both offenses. Additionally, Heston signed a plea agreement indicating that he admitted his guilt and acknowledged that the trial judge could immediately proceed to enter a judgment and impose sentences. The judge accepted Heston's guilty plea, ordered the preparation of a presentence report, and set Heston's sentencing date for one month later.

{¶4} At sentencing, the judge reviewed aloud the presentence report, heard a statement on behalf of the victims, and gave the attorneys and Heston himself an opportunity to speak. Heston again acknowledged his guilt, and he also apologized to the two victims who were present. The judge then imposed sentences on both charges. Heston now appeals.

Though the Trial Court Erred, Heston's Pleas Need Not Be Undone

{¶5} Heston argues that the trial judge's failure to explain both the effect of a guilty plea and that the judge could move immediately to sentencing constitutes a complete failure by the court in its obligation under Criminal Rule 11(C)(2)(b) to ensure that he was knowingly, intelligently, and voluntarily entering his plea. No prejudice from those omissions need be shown by him, he says, and he urges us to vacate his pleas.

{¶6} A defendant who enters a guilty plea in a criminal case must of course do so knowingly, intelligently, and voluntarily. *State v. Engle*, 74 Ohio St.3d 525, 527 (1996). Criminal Rule 11 ensures this by requiring trial judges to apprise each criminal defendant about his or her rights before any defendant surrenders those rights during the plea-change process. Trial courts should strive for "exact compliance" with Criminal Rule 11 to ensure that guilty and no-contest pleas are entered in the way the law intends. *State v. Fontanez*, 2026-

Ohio-3281, ¶ 23. Deviations from that standard, however, do “not always render a plea *not* knowing, intelligent, and voluntary.” *Id.* (emphasis in original).

{¶7} A criminal defendant who seeks the reversal of his or her conviction must usually establish that an error occurred in the trial-court proceedings and that he or she “was prejudiced by that error.” *State v. Dangler*, 2020-Ohio-2765, ¶ 13. When we look for prejudice, we ask “whether the plea would have otherwise been made.” *State v. Gowdy*, 2025-Ohio 5575, ¶ 20. If the plea would have gone forward despite the alleged error, no prejudice has been shown.

{¶8} Two exceptions alleviate a defendant’s obligation to show prejudice. The first of those arises when a trial court fails to explain the *constitutional* rights that a defendant waives by pleading guilty or no-contest in a felony case. *State v. Clark*, 2008-Ohio-3748, ¶ 31. When that has occurred, we presume that the defendant entered the plea involuntarily and unknowingly and we do not require the defendant to show prejudice. *Id.* The second exception comes into play when the trial court “complete[ly] fail[s]” in its duty to address the nonconstitutional-rights in Criminal Rule 11(C). *Dangler* at ¶ 15.

{¶9} In general, then, our analysis of any alleged plea-colloquy missteps focuses on three questions: “(1) has the trial court complied with the relevant provision 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.

The Trial Court Did Not Comply with Criminal Rule 11(C)(2)(b)

{¶10} Crim.R. 11(C) governs guilty and no-contest pleas in felony cases, and its goal is to ensure that “the defendant underst[ands] the consequences of his plea.” *State v. White*,

2025-Ohio-5346, ¶ 20 (8th Dist.). The judge must inform the defendant that by entering a plea of guilty, he or she is waiving certain constitutional and non-constitutional rights that are afforded to criminal defendants. *State v. Christine*, 2026-Ohio-3351, ¶ 9 (5th Dist.).

{¶11} Those constitutional rights, which are spelled out in Crim.R. 11(C)(2)(c), include these: (1) the right to a jury trial, (2) the right to confront and cross-examine witnesses presented by the State, (3) the right to bring his or her own witnesses into court, (4) the right to insist that the State prove the defendant’s guilt beyond a reasonable doubt, and (5) the right to remain silent and offer no incriminating testimony him- or herself at a trial. *Id.*

{¶12} The nonconstitutional rights, which are listed in Crim.R. 11(C)(2)(a) and (b), include the right to be informed about (1) the nature of the charges; (2) the maximum penalty involved and any post-release control that is possible or required after any prison term, (3) the mandatory nature, if any, of the prison or jail penalty, (4) the effect of a plea of guilty or no contest, and (5) the fact that the court can proceed directly to judgment and sentencing. *See State v. Haudenschild*, 2024-Ohio-407, ¶ 33 (5th Dist.).

{¶13} In our case, the trial court did not address those last two nonconstitutional rights, never mentioning that a guilty plea is a complete admission of guilt and never telling Heston that the judge, if he accepted Heston’s guilty pleas, could impose a sentence in the case right afterwards. The answer, then, to the first of *Dangler’s* three questions — did the judge comply with the rule? — is no.

Heston Must Show Prejudice from the Error

{¶14} Under *Dangler’s* second question — which asks whether the defendant, despite the judge’s error, must show that some prejudice resulted from it — we look for two possibilities: whether the error involved constitutional rights and whether any noncompliance

in explaining the defendant's nonconstitutional rights was a "complete failure." *Dangler*, 2020-Ohio-2765, at ¶ 15. The only one of those that could come into play in Heston's case is the latter, with such a complete failure occurring only when the explanation of a nonconstitutional right was "so significant that the defendant realistically could not have understood the consequences of the plea." *Fontanez*, 2026-Ohio-3281, at ¶ 35.

{¶15} The trial judge's omission of the two advisements mentioned in Crim.R. 11(C)(2)(b) does not rise to that level of significance. On the first of the two advisements — about the effect of a guilty plea — we presume that "a defendant who has entered a guilty plea without asserting actual innocence . . . understand[s] that he has completely admitted his guilt.'" *Id.* at ¶ 33, quoting *State v. Griggs*, 2004-Ohio-4415, ¶ 19. At no point during the plea-change hearing did Heston suggest that he was innocent on the rape allegations, and he in fact expressly confessed to the crimes. We cannot presume prejudice on these facts.

{¶16} And a trial judge's failure to mention the rule's second requirement — concerning the possibility of an immediate sentence right after the plea change — is similarly one that, absent a showing of prejudice, does not warrant the undoing of a plea. *Christine*, 2026-Ohio-3351, at ¶ 21 (5th Dist.).

Heston Has Not Met His Burden of Showing Prejudice

{¶17} The final *Dangler* question focuses on the defendant's showing of any prejudice flowing from the trial court's error. *Dangler*, 2020-Ohio-2765, at ¶ 14. Prejudice has been shown when the defendant demonstrates that he or she would not have gone forward with the guilty plea had the judge's advisements conformed to the rule. *Gowdy*, 2025-Ohio-5575, at ¶ 20. And any showing of prejudice must be drawn from the trial-court record rather than from some outside source. *Id.*

{¶18} Heston has not identified any prejudice, and we see no evidence of it in the record. After Heston forthrightly acknowledged his guilt and gave no indication that he believed he was innocent, and after the trial judge discussed with Heston both the constitutional rights in Crim.R. 11(C)(2)(c) and the nonconstitutional ones in Crim.R. 11(C)(2)(a), the judge opted to schedule a sentencing hearing on a date several weeks down the road. No prejudice therefore flowed from the judge's failure to address the two nonconstitutional rights in Crim.R. 11(C)(2)(b).

{¶19} For these reasons, the judgment of the Court of Common Pleas of Knox County is affirmed. Costs are to be paid by Appellant Michael Heston.

By: Gormley, J.;

King, P.J. and

Hoffman, J. concur.