

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

State of Ohio

Court of Appeals No. L-11-1134

Appellee

Trial Court No. CR0201101442

v.

Hasawn Showes

DECISION AND JUDGMENT

Appellant

Decided: May 25, 2012

* * * * *

Julia R. Bates, Lucas County Prosecuting Attorney, and
Andrew J. Lastra, Assistant Prosecuting Attorney, for appellee.

Stephen D. Long, for appellant.

* * * * *

PIETRYKOWSKI, J.

{¶ 1} Defendant-appellant, Hasawn Showes, appeals the May 31, 2011 judgment of the Lucas County Court of Common Pleas which, following guilty pleas to two counts of robbery, sentenced him to a total of 16 years of imprisonment. Because we find that

prior to accepting his pleas appellant was properly informed of his rights under Crim.R. 11(C), we affirm.

{¶ 2} On March 17, 2011, appellant and five co-defendants were charged with a multi-count indictment relating to a string of robberies in the Toledo area from December 2010 through March 2011. As to appellant, he was charged with two counts of aggravated robbery (Counts 10 and 13), in violation of R.C. 2911.01(A)(1), and three counts of robbery (Counts 1, 11, and 14), in violation of R.C. 2911.02(A)(2). Appellant entered not guilty pleas to all the charges.

{¶ 3} Thereafter, appellant withdrew his not guilty pleas and, pursuant to the state's agreement to dismiss the aggravated robbery counts and one count of robbery, entered guilty pleas to two counts of robbery, second degree felonies. On May 31, 2011, appellant was sentenced to maximum, consecutive prison terms totaling 16 years. This appeal followed.

{¶ 4} Appellant raises the following assignment of error for our review:

The trial court abused its discretion by accepting the appellant's guilty plea without first ensuring that the plea was knowingly, intelligently and voluntarily entered.

{¶ 5} In his sole assignment of error, appellant argues that during the sentencing hearing, the trial court erroneously questioned appellant about the facts underlying the charges prior to explaining the consequences of his guilty pleas. In other words, appellant argues that he was required to make incriminating statements in court prior to

the court's notification of and appellant's determination to waive certain constitutional and nonconstitutional rights. In response, the state asserts that appellant was provided with a full hearing prior to the court accepting appellant's pleas and that his argument is based on "semantics" rather than substance.

{¶ 6} We note that before accepting a guilty plea, Crim.R. 11(C)(2) demands that the trial court inform a defendant of various rights he is waiving by entering the plea. In that regard, the rule provides in pertinent part:

(2) In felony cases the court * * * shall not accept a plea of guilty * * * without first addressing the defendant personally 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, * * *

(b) Informing the defendant of and determining that the defendant understands the effect of the plea of guilty * * * 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.

{¶ 7} The purpose of Crim.R. 11(C)(2) is to ensure the defendant has the information needed to make a voluntary and intelligent decision regarding whether to plead guilty. *State v. Ballard*, 66 Ohio St.2d 473, 479-480, 423 N.E.2d 115 (1981). When advising a defendant of his constitutional rights, a trial court must strictly comply with Crim.R. 11(C)(2)(c). *State v. Veney*, 120 Ohio St.3d 176, 2008-Ohio-5200, 897 N.E.2d 621, ¶ 18-21. Substantial compliance is insufficient. *Id.* Failure of the trial court to comply strictly with Crim.R. 11(C)(2)(c) constitutes reversible or prejudicial error which renders the plea invalid. *Id.* at ¶ 29. Substantial compliance is required for the notifications under Crim.R. 11(C)(2)(a) and (b). *See State v. Griggs*, 103 Ohio St.3d 85, 2004-Ohio-4415, 814 N.E.2d 51.

{¶ 8} At appellant's May 9, 2011 plea hearing, after ascertaining that appellant was clear-headed, the trial court read through the relevant counts in the indictment and had appellant explain the factual circumstances of the crimes. The state interjected at various points providing additional facts.

{¶ 9} Thereafter, the trial court discussed the penalties appellant faced, appellant's right to a jury trial, his right to compel the presence of and confront and cross-examine witnesses, the state's burden of proof, his right to remain silent during trial, and his limited appeal rights following a guilty plea. The court further determined that there were no promises made in connection with appellant's pleas and that he had not been

threatened to make the plea as to each count. Finally, the court determined that appellant was satisfied with his defense counsel. The court then accepted appellant's guilty pleas.

{¶ 10} Upon review, we agree that early inquiry into the basis of a guilty plea could prove problematic if, after being informed of his Crim.R. 11(C) rights, a defendant then decides not to enter a plea. However, in the present case appellant did, in fact, enter guilty pleas which the court accepted only after ensuring that the pleas were knowing and voluntary. Appellant agrees that the court complied with the requirements of Crim.R. 11(C). Further, appellant fails to argue that he was prejudiced by the sequence of the sentencing hearing proceedings.

{¶ 11} Based on the foregoing, we find that appellant knowingly, intelligently, and voluntarily entered his guilty pleas and that the trial court complied with Crim.R. 11(C). Appellant's assignment of error is not well-taken.

{¶ 12} On consideration whereof, we find that appellant was not prejudiced or prevented from having a fair proceeding and the judgment of the Lucas County Court of Common Pleas is affirmed. Pursuant to App.R. 24, appellant is ordered to pay the costs of this appeal.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Peter M. Handwork, J.

JUDGE

Mark L. Pietrykowski, J.

JUDGE

Thomas J. Osowik, J.
CONCUR.

JUDGE

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