

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

STATE OF OHIO,	:	
Plaintiff-Appellee,	:	
v.	:	No. 114090
MARCUIECE JOHNSON,	:	
Defendant-Appellant.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: May 22, 2025

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-23-681557-A

Appearances:

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Melissa Riley, Assistant Prosecuting Attorney, *for appellee*.

Marcuiece Johnson, *pro se*.

DEENA R. CALABRESE, J.:

{¶ 1} Defendant-appellant Marcuiece Johnson (“Johnson”) filed a notice of appeal of his convictions and sentence following a guilty plea to compelling prostitution and two counts of sexual battery. Johnson’s appointed counsel then filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), seeking leave to

withdraw as counsel and dismiss the appeal. We grant counsel's request to withdraw.

{¶ 2} Johnson filed a pro se brief on November 26, 2024, arguing that venue and jurisdiction were improper, that the trial court erred in overruling his motion to withdraw his guilty plea, that his plea was not knowingly, voluntarily, and intelligently given, and that the trial court erred when it allowed hearsay victim testimony in a victim-impact statement to be read in open court. Upon review, we find no merit to Johnson's appeal and therefore affirm the judgment of the trial court.

I. Facts and Procedural History

{¶ 3} The charges in this case stemmed from events that took place in a hotel on May 27, 2023. On that date, Johnson was at a Hampton Inn in Cleveland, Ohio, with a Jane Doe, whom he had brought to the city. He posted an advertisement on a prostitution website offering Jane Doe's availability to perform sexual acts in exchange for monetary compensation. Jane Doe was able to escape from Johnson and seek assistance from an off-duty Cleveland police officer working security at the hotel. Jane Doe also reported that Johnson sexually assaulted her.

{¶ 4} Johnson was indicted by a Cuyahoga County Grand Jury on June 7, 2023, of the following counts:

Count 1: Trafficking in persons in violation of R.C. 2905.32(A)(1), a felony of the first degree;

Count 2: Compelling prostitution in violation of R.C. 2907.21(A)(1), a felony of the third degree;

Count 3: Rape in violation of R.C. 2907.02(A)(2), a felony of the first degree;

Count 4: Rape in violation of R.C. 2907.02(A)(2), a felony of the first degree;

Count 5: Sexual battery in violation of R.C. 2907.03(A)(1), a felony of the third degree;

Count 6: Kidnapping in violation of R.C. 2905.01(A), a violation of the first degree, with a sexual motivation specification.

{¶ 5} On January 31, 2024, Johnson entered into a plea agreement. As part of the plea agreement, he pled guilty to Count 2, compelling prostitution, a felony of the third degree; Count 3 as amended to sexual battery, a felony of the third degree; and Count 5, sexual battery, also a felony of the third degree. Counts 1, 4, and 6 were nolledd. Johnson was sentenced on April 1, 2024, to a total of 18 months in prison, 5 years of postrelease control, and was ordered to register as a Tier III sex offender under the Adam Walsh Act.

{¶ 6} On June 24, 2024, Johnson, acting pro se, filed an appeal challenging the trial court's judgment and a motion for appointment of appellate counsel. On July 12, 2024, this court granted Johnson's motion and appointed counsel to represent him.

{¶ 7} On September 29, 2024, appointed counsel filed an *Anders* brief and a motion for leave to withdraw as counsel. Therein, appointed counsel identified two potential issues to raise on appeal: (1) whether appellant knowingly, intelligently, and voluntarily pled guilty; and (2) did the trial court comply with all applicable law to support the sentence imposed. Counsel ultimately determined that proceeding

with an appeal relating to Johnson's guilty plea or the trial court's sentence would be frivolous.

{¶ 8} On October 16, 2024, this court granted counsel's motion to withdraw and ordered Johnson to file a pro se brief on or before November 14, 2024. On November 13, 2024, Johnson filed a motion to extend time to file his brief, which the court granted, ordering him to file his brief on or before December 16, 2024. Johnson filed a pro se appellate brief on November 26, 2024, raising the following assignments of error, verbatim, for our review:

1. Appellants multiple convictions for sexual battery a violation of Ohio Revised Code 2907.03(A)(1) and compelling a violation of Ohio Revised Code 2907.21(A)(1) in persons in violation of Ohio Revised Code 2905.32(A)(1) are void as the State of Ohio and or Cuyahoga County, Ohio was the improper venue and jurisdiction, in violation of Article One, Section Ten of the Ohio Constitution and Section 2901.12 of the Ohio Revised Code.
2. The trial court erred in overruling Mr. Johnsons motion to withdraw his guilty plea.”
3. The appellants plea was not knowingly, voluntarily and intelligently given
4. The court erred when it allowed a hearsay victim testimony in a victim's impact statement to be read in open court without an affidavit or direct evidence that it came from the alleged victim herself at it prejudiced the Appellant during sentencing.

II. Law and Analysis

A. Jurisdiction, Venue, and Manifest Weight and Sufficiency of the Evidence

{¶ 9} In his first assignment of error, Johnson argues that jurisdiction and venue were improper because the events took place in Arkansas and that the evidence against him was insufficient.

{¶ 10} Johnson argues the trial court did not have jurisdiction because the events took place in Arkansas. “Subject-matter jurisdiction refers to the constitutional or statutory power of a court to adjudicate a particular class or type of case.” *State v. Harper*, 2020-Ohio-2913, ¶ 23, citing *Pratts v. Hurley*, 2004-Ohio-1980, ¶ 11-12, 34. Pursuant to R.C. 2931.03, “a common pleas court has subject-matter jurisdiction over felony cases.” *Harper* at ¶ 25, quoting *Smith v. Sheldon*, 2019-Ohio-1677, ¶ 8. A guilty plea does not waive a defendant’s right to challenge a court’s subject-matter jurisdiction. *United States v. Doyle*, 348 F.2d 715 (2d Cir. 1965); *Montpelier v. Greeno*, 25 Ohio St.3d 170, 171 (1986); *State v. Brown*, 2022-Ohio-3032, ¶ 12 (8th Dist.). Here, Johnson was charged with felonies in Cuyahoga County, Ohio.

{¶ 11} As for personal jurisdiction “[i]n a criminal case, the court secures jurisdiction over the person by the lawful process of arrest and arraignment of the defendant and his plea to the charge.” *State v. Jeffries*, 2023-Ohio-4657, ¶ 4 (8th Dist.), citing *State v. Henderson*, 2020-Ohio-4784, ¶ 36, citing *Tari v. State*, 117 Ohio St. 481, 490 (1927). The record reflects that Johnson was arrested Cuyahoga

County, Ohio, and pled guilty in the Cuyahoga County Common Pleas Court. For the reasons stated above, the trial court possessed both personal jurisdiction over Johnson and subject-matter jurisdiction over his underlying charges.

{¶ 12} Johnson also argues that venue was improper. Under R.C. 2901.12(A), criminal trials are to be held “in the territory of which the offense or any element thereof was committed.” In addition, under R.C. 2901.12(H), offenses committed in other jurisdictions “as a part of a course of criminal conduct” can be tried “in any jurisdiction in which one of those offenses or any element of one of those offenses occurred.” *See State v. Mayfield*, 2024-Ohio-5915, ¶ 5 (8th Dist.). Venue is a factual issue, and a guilty plea acts as a waiver precluding a defendant from later challenging venue. *Id.* at ¶ 7, citing *State v. McCartney*, 55 Ohio App.3d 170 (9th Dist. 1988), citing *State v. Genda*, 1982 Ohio App. LEXIS 14441 (9th Dist. Mar. 3, 1982). In this case, Johnson pled guilty; therefore, his guilty plea acted as a waiver to any venue challenges.

{¶ 13} Johnson’s first assignment of error also makes sufficiency-of-the-evidence and manifest-weight arguments. However, because Johnson pled guilty, he waived his right to challenge the sufficiency and manifest weight of the evidence. *State v. Shabazz*, 2020-Ohio-799, ¶ 9 (8th Dist.); citing *State v. Barrett*, 2011-Ohio-2303 (2d Dist.), citing *State v. Griggs*, 2004-Ohio-4415; *State v. Rice*, 2018-Ohio-5356, ¶ 7 (8th Dist.); *State v. Jamison*, 2006-Ohio-4933, ¶ 38 (2d Dist.).

{¶ 14} For the reasons stated above, Johnson’s first assignment of error is overruled.

B. Motion to Withdraw Guilty Plea

{¶ 15} In his second assignment of error, Johnson argues that the trial court erred when it did not allow him to withdraw his guilty plea.

{¶ 16} Johnson filed a pro se motion to withdraw his guilty plea on February 13, 2024. The trial court addressed this motion with Johnson at length in a hearing held on February 27, 2024. The trial court continued the case to March 28, 2024, to allow Johnson time to consider whether to go forward with his motion. During the March 28, 2024 hearing, Johnson withdrew the motion to withdraw his guilty plea through counsel. (Tr. 69.) As a result, the issue is moot and Johnson's second assignment of error is overruled.

C. Whether Plea was Knowingly, Voluntarily, and Intelligently Given

{¶ 17} In his third assignment of error, Johnson argues that his plea was not knowingly, voluntarily, and intelligently given.

{¶ 18} “To ensure that a defendant enters a plea knowingly, voluntarily, and intelligently, a trial court must engage in colloquy with the defendant in accordance with Crim.R. 11(C).” *State v. Meadows*, 2022-Ohio-4513, ¶ 18 (8th Dist.), citing *State v. Engle*, 74 Ohio St.3d 525, 527 (1996). Crim.R. 11(C)(2) requires that during the plea colloquy, the trial court does the following:

(a) Determin[e] 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) [Inform] the defendant of and determin[e] 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 judgement and sentence.

(c) [Inform] the defendant and determin[e] 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.

{¶ 19} Appellate review of compliance with Crim.R. 11(C) is de novo and considers the totality of the circumstances to determine whether the plea hearing followed the rule. *State v. Foster*, 2024-Ohio-5919, ¶ 8 (8th Dist.), citing *State v. Cardwell*, 2009-Ohio-6827, ¶ 26 (8th Dist.).

{¶ 20} The appellate court reviews the following:

“(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?”

State v. Ponomarenko, 2024-Ohio-4789, ¶ 15 (8th Dist.), quoting *State v. Dangler*, 2020-Ohio-2765, ¶ 17.

{¶ 21} The focus on review is “whether the dialogue between the court and the defendant demonstrates that the defendant understood the consequences of his plea.” *Dangler* at ¶ 12 citing *State v. Veney*, 2008-Ohio-5200, ¶ 15-16; *State v. Clark*, 2008-Ohio-3748, ¶ 26; *State v. Miller*, 2020-Ohio-1420, ¶ 19. A criminal defendant asking an appellate court to reverse a conviction must show that an error occurred in the trial court proceedings and that he was prejudiced by that error.

Dangler at ¶ 13; see *State v. Perry*, 2004-Ohio-297, ¶ 14-15; *State v. Stewart*, 51 Ohio St.2d 86, 92 (1977); Crim.R. 52.

{¶ 22} There are two exceptions to this rule. The first exception is when a trial court fails to explain constitutional rights that a defendant waives by entering a guilty plea, there is a presumption that the plea was entered involuntarily and unknowingly, and a showing of prejudice is not required. *Dangler* at ¶ 14, citing *Clark* at ¶ 31. The second exception is a trial court's complete failure to comply with a portion of Crim.R. 11(C), in which case the defendant is not required to show prejudice. *Dangler* at ¶ 15; *State v. Sarkozy*, 2008-Ohio-509, ¶ 22.

{¶ 23} In this case, Johnson makes general arguments that his plea was not knowingly, voluntarily, and intelligently given, but does not point to any specific deficiency in the plea colloquy. Nothing in the record indicates that the trial court did not engage in a plea colloquy demonstrating that Johnson understood the consequences of his plea. We find that the trial court complied with the relevant provisions of Crim.R. 11; therefore, under *Dangler*, no further analysis is required. Finding no error, we thus find that Johnson's guilty plea was entered knowingly, intelligently, and voluntarily. Johnson's third assignment of error is overruled.

D. Victim-Impact Statement

{¶ 24} In his fourth, and final, assignment of error, Johnson argues that the trial court erred when it allowed a victim-impact statement to be read during the sentencing hearing, arguing that it was inadmissible hearsay. Jane Doe was not

present during Johnson’s sentencing hearing, but her mother appeared and read a victim-impact statement.

{¶ 25} The Rules of Evidence do not apply in sentencing proceedings. *See* Evid.R. 101(C); *Cleveland v. Figueroa*, 2022-Ohio-4012, ¶ 11 (8th Dist.), citing *State v. Cook*, 83 Ohio St.3d 404, 425 (1998). “[A] trial court ‘is free to rely on reliable hearsay in its sentencing decision.’” *State v. Bryant*, 2014-Ohio-5306, ¶ 21 (10th Dist.), quoting *State v. Bene*, 2006-Ohio-3628, ¶ 21 (12th Dist.). Thus, the victim-impact statement read during Johnson’s sentencing hearing is not inadmissible hearsay.

{¶ 26} In addition, Ohio Const., art. I, § 10(a), generally referred to as Marsy’s Law, ensures “a victim of a crime has the right to be heard in any public proceeding including sentencing.” *State v. Wagner*, 2024-Ohio-5394, ¶ 10 (8th Dist.); *see also State v. Bell*, 2009-Ohio-2138, ¶ 14 (8th Dist.). R.C. 2930.02(A)(1) allows a victim to designate a representative to assert their rights under Marsy’s Law. In this case, Jane Doe designated her mother as her representative to exercise her rights at the sentencing hearing. Jane Doe’s mother, acting as her representative, read a letter written by Jane Doe at the February 27, 2024 hearing. We find no error by the trial court; therefore, Johnson’s fourth assignment of error is overruled.

{¶ 27} We grant counsel’s request to withdraw. We also find no merit to Johnson’s appeal and therefore affirm the judgment of the trial court.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution. The defendant's conviction having been affirmed, any bail pending appeal is terminated. Case remanded to the trial court for execution of sentence.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

DEENA R. CALABRESE, JUDGE

EILEEN A. GALLAGHER, A.J., and
EMANUELLA D. GROVES, J., CONCUR