

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

State of Ohio

Court of Appeals No. L-14-1158

Appellee

Trial Court No. CR0201303179

v.

Adam Anderson

**DECISION AND JUDGMENT**

Appellant

Decided: May 1, 2015

\* \* \* \* \*

Julia R. Bates, Lucas County Prosecuting Attorney, and  
Evy M. Jarrett, Assistant Prosecuting Attorney, for appellee.

Karin L. Coble, for appellant.

\* \* \* \* \*

**OSOWIK, J.**

{¶ 1} This is an appeal from a judgment of the Lucas County Court of Common Pleas that found appellant guilty of one count of involuntary manslaughter and one count of burglary upon appellant's plea of guilty. For the following reasons, the judgment of the trial court is affirmed.

{¶ 2} On December 18, 2013, appellant was indicted on one count of murder in violation of R.C. 2903.02(B) and 2929.02, an unclassified felony; one count of felonious assault in violation of R.C. 2903.11(A)(1); and one count of aggravated burglary in violation of R.C. 2911.11(A)(1). Each count carried a firearm specification pursuant to R.C. 2941.145. Appellant entered a plea of not guilty to all counts.

{¶ 3} On May 19, 2014, appellant withdrew his earlier plea of not guilty orally and in writing and entered a plea of guilty to involuntary manslaughter in violation of R.C. 2903.04(A) and (C) and one count of aggravated burglary in violation of R.C. 2911.11(A)(1), both felonies of the first degree. The plea form signed by appellant stated that each offense carried a potential sentence of 3, 4, 5, 6, 7, 8, 9, 10 or 11 years, for a maximum basic prison term of 22 years. The form indicated that none of the time was mandatory. The record reflects that, before accepting appellant's plea, the trial court verified that appellant had reviewed the form and signed it of his own free will without any threat or promise and that he had no questions about the agreement.

{¶ 4} The record reflects that the trial court then conducted a thorough hearing pursuant to Crim.R. 11(C) and found that appellant made a knowing, intelligent, voluntary decision to withdraw his former plea of not guilty and tender a plea of guilty. The court further found that appellant had been informed of all of his constitutional rights orally and in writing, that he understood the nature of the charges against him, the effect of the plea and the possible penalties. The trial court then accepted appellant's pleas and found him guilty of the same.

{¶ 5} Appellant sets forth the following assignments of error:

Assignment of Error One: Appellant's plea was unknowing, unintelligent, and involuntary.

Assignment of Error Two: Neither the judgment entry nor statements at the sentencing hearing indicate which portion of the sentence is mandatory.

{¶ 6} Appellant's assignments of error will be considered together. Appellant appears to assert that his plea was not knowing, intelligent and voluntary because the trial court failed to inform him pursuant to R.C. 2903.04(D)(2) that he was ineligible for community control and that the charge of involuntary manslaughter carried a mandatory prison term.

{¶ 7} This court has thoroughly reviewed the record of proceedings in the trial court, including appellant's plea agreement and the transcripts of the plea hearing and sentencing hearing. First, the record reflects that appellant was well-informed and understood the plea into which he was entering, in particular the maximum penalty involved. The record is devoid of any objective or compelling evidence of impropriety in connection to the handling of the plea.

{¶ 8} Further, appellant's argument that the trial court erred by failing to acknowledge the mandatory time provision of R.C. 2903.04(D)(2) is without merit as the aforementioned statute section clearly does not apply herein. Appellant did not enter a plea to R.C. 2903.04(D), which sets forth the penalty when an act that proximately results

in death involves operation of a motor vehicle while under the influence of alcohol or a drug of abuse as set forth in R.C. 4511.19. We note that R.C. 2903.04(D)(2) does require a mandatory prison sentence when the offender is convicted of or pleads guilty to a violation of division (A) or (B) of that section *and* if the felony that proximately resulted in the death of the other person *was a violation of division (A) or (B) of R.C. 4511.19*. The underlying felony in this case was the offense of aggravated burglary, not R.C. 4511.19. The trial court in this case would have erred if it stated that the offense herein carried mandatory time pursuant to R.C. 2903.04. *See State v. Woodfork*, 10th Dist. Franklin No. 12AP-1092, 2013-Ohio-2428, ¶ 8.

{¶ 9} Based on the foregoing, we find that the trial court had no obligation to inform appellant of a possible mandatory prison sentence because appellant was not subject to a mandatory prison sentence. Appellant's first and second assignments of error are not well-taken.

{¶ 10} On consideration whereof, the judgment of the Lucas County Court of Common Pleas is affirmed. Costs of this appeal are assessed to appellant pursuant to App.R. 24.

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.

Mark L. Pietrykowski, J.

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JUDGE

Thomas J. Osowik, J.

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JUDGE

James D. Jensen, J.  
CONCUR.

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JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:  
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.