

[Cite as *State v. Worth*, 2010-Ohio-1996.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio,	:	
	:	
Plaintiff-Appellee,	:	
	:	No. 09AP-867
v.	:	(C.P.C. No. 09CR-01-150)
	:	
William A. Worth, II,	:	(REGULAR CALENDAR)
	:	
Defendant-Appellant.	:	

D E C I S I O N

Rendered on May 6, 2010

Ron O'Brien, Prosecuting Attorney, and *Sarah Creedon*, for appellee.

Keith O'Korn, for appellant.

APPEAL from the Franklin County Court of Common Pleas.

FRENCH, J.

{¶1} Defendant-appellant, William A. Worth, II ("appellant"), appeals the judgment of the Franklin County Court of Common Pleas, which convicted him pursuant to a guilty plea to felony offenses. For the following reasons, we vacate the plea, reverse the trial court's judgment, and remand the matter for further proceedings.

{¶2} Appellant pleaded guilty to rape with a firearm specification and aggravated burglary, felonious assault, and kidnapping without specifications. The trial court accepted the plea and sentenced him to 34 years imprisonment. He appeals, raising six assignments of error:

ASSIGNMENT OF ERROR #1

TRIAL COURT DID NOT COMPLY WITH CRIMINAL RULE 11 AND APPELLANT'S PLEA WAS NOT KNOWINGLY, INTELLIGENTLY AND VOLUNTARILY MADE THEREBY DEPRIVING HIM OF HIS 5TH, 6TH, AND 14TH AMENDMENT RIGHTS UNDER THE U.S. CONSTITUTION, AND HIS RIGHTS UNDER ARTICLE I, SECTIONS 1, 5, 10, AND 16 OF THE OHIO CONSTITUTION.

ASSIGNMENT OF ERROR #2

THE TRIAL COURT ABUSED IT[S] DISCRETION AND DEPRIVED APPELLANT OF HIS 5TH, 6TH, AND 14TH AMENDMENT RIGHTS UNDER THE U.S. CONSTITUTION, AND HIS RIGHTS UNDER ARTICLE I, SECTIONS 1, 5, 10, AND 16 OF THE OHIO CONSTITUTION WHEN THE TRIAL COURT FAILED TO GRANT APPELLANT A HEARING ON HIS MOTION TO WITHDRAW HIS PLEA AND THEN DENIED THE MOTION ALTOGETHER.

ASSIGNMENT OF ERROR #3

APPELLANT'S SENTENCE WAS CLEARLY AND CONVINCINGLY CONTRARY TO LAW AND CONSTITUTED AN ABUSE OF DISCRETION.

ASSIGNMENT OF ERROR #4

THE TRIAL COURT PLAINLY ERRED BY ENTERING CONVICTIONS AND SENTENCING THE APPELLANT ON BOTH THE RAPE AND KIDNAPPING COUNTS IN VIOLATION OF THE DOUBLE JEOPARDY CLAUSE OF THE 5TH AMENDMENT OF THE U.S. CONSTITUTION AND SECTION 10, ARTICLE I OF THE OHIO

CONSTITUTION, AND OHIO'S MULTIPLE-COUNT
STATUTEASSIGNMENT OF ERROR #5

THE TRIAL COURT ERRED BY FOLLOWING *FOSTER*, IN CONTRAVENTION OF RECENT U.S. SUPREME COURT PRECEDENT, *OREGON V. ICE*, AND BY IMPOSING CONSECUTIVE SENTENCES WITHOUT MAKING THE REQUIRED STATUTORY FINDINGS PURSUANT TO R.C. §§ 2929.14(E)(4), 2929.41(A).

ASSIGNMENT OF ERROR #6

TRIAL COUNSEL RENDERED INEFFECTIVE ASSISTANCE OF COUNSEL IN VIOLATION OF THE 6TH AMENDMENT TO THE U.S. CONSTITUTION AND ARTICLE I, SECTIONS 10, 16 OF THE OHIO CONSTITUTION.

{¶3} In his first assignment of error, appellant argues that the trial court failed to comply with Crim.R. 11 when it accepted his guilty plea. Plaintiff-appellee, the state of Ohio, concedes that the trial court committed this error, and we agree.

{¶4} Crim.R. 11(C) governs the process that a trial court must use before accepting a guilty plea to a felony. For instance, it must orally inform the defendant that he is waiving constitutional rights listed in Crim.R. 11(C)(2)(c). *State v. Veney*, 120 Ohio St.3d 176, 2008-Ohio-5200, ¶31. "When a trial court fails to strictly comply with this duty, the defendant's plea is invalid." *Id.* Crim.R. 11(C)(2)(c) lists the right to a trial where a defendant cannot be compelled to testify against himself, but it is undisputed that the trial court accepted appellant's guilty plea without orally informing him that he was waiving this right. Because the court did not strictly comply with its duty to personally address appellant about this information, his guilty plea is invalid, and we

sustain his first assignment of error. Given this conclusion, the remaining assignments of error are moot, and we need not address them. See App.R. 12(A)(1)(c).

{¶5} In summary, we sustain appellant's first assignment of error and render moot his remaining five assignments of error. Consequently, we vacate his guilty plea, reverse the judgment of the Franklin County Court of Common Pleas, and remand this cause to that court for further proceedings consistent with our decision.

Judgment reversed and cause remanded.

KLATT and McGRATH, JJ., concur.
