

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NOS. C-140712
		C-140713
Plaintiff-Appellee,	:	C-140714
		TRIAL NOS. B-1107065
vs.	:	B-1200584
		B-1207866-B
GERRY BRANNER,	:	
		<i>JUDGMENT ENTRY.</i>
Defendant-Appellant.	:	

We consider these appeals on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

In the case numbered B-1107065, defendant-appellant Gerry Branner pled guilty to the offenses of trafficking in heroin, possession of heroin, having a weapon while under a disability, carrying a concealed weapon, improper handling of a firearm in a motor vehicle, and receiving stolen property. In the case numbered B-1200584, Branner pled guilty to having a weapon while under a disability and carrying a concealed weapon. And in the case numbered B-1207866-B, Branner pled guilty to trafficking in heroin.

With respect to the case numbered B-1107065, the trial court imposed the following sentence: eight years' imprisonment for the offense of trafficking in heroin, 36 months' imprisonment for the offense of having a weapon while under a disability, 18 months' imprisonment for the offense of carrying a concealed weapon,

and 18 months' imprisonment for the offense of receiving stolen property. The offenses of possession of heroin and improper handling of a firearm in a motor vehicle were merged into other offenses for purposes of sentencing. The trial court made the sentences imposed for the offenses of trafficking in heroin and having a weapon while under a disability consecutive to each other, but concurrent to the remaining offenses, resulting in an aggregate sentence of 11 years' imprisonment.

With respect to the case numbered B-1200584, the trial court imposed a sentence of 24 months' imprisonment for the offense of having a weapon while under a disability and 18 months' imprisonment for the offense of carrying a concealed weapon. These sentences were made concurrent to each other. Last, with respect to the case numbered B-1207866-B, the trial court imposed a sentence of 36 months' imprisonment. The sentences imposed in all three cases were made consecutive to each other, resulting in an aggregate sentence of 16 years' imprisonment.

Branner now appeals. In his first assignment of error, he argues that the trial court abused its discretion when it denied his presentence motion to withdraw his guilty pleas. The record indicates that the trial court fully considered all the relevant factors to be weighed when ruling on a presentence motion to withdraw a plea. *See State v. Fish*, 104 Ohio App.3d 236, 240, 661 N.E.2d 788 (1st Dist.1995). The record reveals that Branner had been represented by competent counsel at his plea hearing, that the trial court had engaged in a thorough Crim.R. 11 plea colloquy, and that Branner was accorded a full and fair hearing on his motion to withdraw. Although the motion was made within a reasonable time, Branner's arguments in support of withdrawal were not credible. Branner argued that he should be allowed to withdraw his pleas because he had entered them while facing a murder charge, which had since been resolved. He further argued that he had been unaware of the amount of time

that he faced in jail, but the record belies that assertion. The trial court did not abuse its discretion in denying Branner's presentence motion to withdraw. *See State v. Xie*, 62 Ohio St.3d 521, 527, 584 N.E.2d 715 (1992). The first assignment of error is overruled.

In his second assignment of error, Branner argues that his plea in the case numbered B-1107065 was not entered knowingly and voluntarily. In support, he contends that the plea form mistakenly indicated that he only faced a mandatory two years' imprisonment for the offenses of trafficking in heroin and possession of heroin. Branner's representations regarding the plea form are correct. But the plea form additionally indicated that both offenses carried a sentencing range of two to eight years' imprisonment, and the trial court fully and clearly explained during the plea hearing that any sentence imposed for these offenses would be mandatory in its entirety. Following our review of the record, we find that the trial court substantially complied with Crim.R. 11(C)'s requirement that it inform Branner of the maximum penalty faced, and that Branner suffered no prejudice. *See State v. Littlejohn*, 1st Dist. Hamilton Nos. C-150056 and C-150057, 2015-Ohio-4143, ¶ 9. Branner entered his plea knowingly, voluntarily, and intelligently. The second assignment of error is overruled.

Therefore, the judgments of the trial court are affirmed.

A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HENDON, P.J., MOCK and STAUTBERG, JJ.

To the clerk:

Enter upon the journal of the court on December 9, 2015
per order of the court _____.
Presiding Judge