

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

STATE OF OHIO,	:	APPEAL NO. C-250147
	:	TRIAL NO. B-2404649
Plaintiff-Appellee,	:	
vs.	:	
	:	<i>JUDGMENT ENTRY</i>
DERRICK GIBBS,	:	
Defendant-Appellant.	:	

We sua sponte remove this cause from the regular calendar and place it on the court’s accelerated calendar, Loc.R. 11.1(C)(1), and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); Loc.R. 11.1.

On October 3, 2024, defendant-appellant Derrick Gibbs was indicted on two counts of attempted burglary in violation of R.C. 2911.12(A) and 2923.02(A), both felonies of the third degree. At the plea hearing, the trial court expressed its understanding that Gibbs would enter guilty pleas to the charges. In reply, Gibbs stated his intent to plead no contest. The judge countered, “I don’t do no contest. It’s either guilty or not guilty.” Gibbs then pled guilty. The trial court imposed a two-year prison term on each count and ordered the terms to run concurrently.

Gibbs brings two assignments of error on appeal, the first of which is dispositive. Specifically, he maintains the trial court erred in refusing to let him plead no contest after articulating a blanket policy against no-contest pleas. The State concedes the error.

While a guilty plea constitutes a complete admission of guilt, a no-contest plea

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constitutes an admission to the truth of the facts alleged in the charging instrument. Crim.R. 11(B). A trial court may accept or reject a no-contest plea, and its decision to do so is reviewed for an abuse of discretion. *See* Crim.R. 11(A) (defendant may plead no contest with the consent of the court); *State v. Dotson*, 2017-Ohio-918, ¶ 7 (1st Dist.).

The Ohio Supreme Court has expressly held that “a trial court abuses its discretion when it rejects a no-contest plea as a matter of course without considering the facts and circumstances of the case.” *State v. Beasley*, 2018-Ohio-16, ¶ 10. This court similarly held that a trial court abuses its discretion in implementing a blanket policy against no-contest pleas. *Dotson* at ¶ 8. The trial court’s articulated prohibition at Gibbs’s plea hearing embodies such a blanket policy. Moreover, Gibbs adequately preserved the error by articulating his wish to plead no contest on the record. *See Beasley* at ¶ 14-16. Gibbs’s first assignment of error is accordingly sustained.

Gibbs’s second assignment of error challenges the knowing, intelligent, and voluntary nature of his guilty pleas. Our disposition of the first assignment of error renders this assignment moot, and we decline to address it. *See State v. Gideon*, 2020-Ohio-6961, ¶ 26 (reasoning, “an assignment of error is moot when an appellant presents issues that are no longer live as a result of some other decision rendered by the appellate court”); *see* App.R. 12(A)(1)(c).

The trial court’s judgment is reversed and the matter is remanded to the trial court to allow Gibbs to enter a new plea in accordance with Crim.R. 11. *See, e.g., Beasley* at ¶ 17. The court further orders that 1) a copy of this Judgment constitutes the mandate, 2) the mandate be sent to the trial court for execution under App.R. 27, and 3) costs shall be taxed under App.R. 24.

**KINSLEY, P.J., BOCK and MOORE, JJ.**

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**To the clerk:**

**Enter upon the journal of the court on 7/3/2025 per order of the court.**

By:  \_\_\_\_\_  
**Administrative Judge**