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

STATE OF OHIO,	:	APPEAL NO. C-250596 TRIAL NOS. 24/TRC/12299A
Plaintiff-Appellee,	:	24/TRC/16263A
vs.	:	
NDUBUISI EZEH,	:	*JUDGMENT ENTRY*
Defendant-Appellant.	:	

BOCK, Judge.

This court sua sponte removes this cause from the regular calendar and places it on the court's accelerated calendar, 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.

In two assignments of error, defendant-appellant Ndubuisi Ezeh appeals the Hamilton County Municipal Court's judgments convicting him of operating a vehicle while under the influence ("OVI") under R.C. 4511.19(A)(1)(a) and reckless operation of a vehicle ("reckless operation") under R.C. 4511.20.

FACTS

In April and June 2024, Cincinnati Police officers charged Ezeh with multiple OVI counts under R.C. 4511.19(A)(1)(a) and (d) and several minor-misdemeanor traffic violations.

The State amended one of the OVI charges to a reckless-operation charge, a fourth-degree misdemeanor, because it was Ezeh's second reckless-operation offense within a year. All told, in exchange for Ezeh pleading guilty to the amended reckless-

operation charge and one OVI charge under R.C. 4511.19(A)(1)(a), the State dismissed Ezeh's remaining driving violations, as well as five other misdemeanor charges.

After accepting Ezeh's guilty pleas, the trial court imposed a 130-day sentence with 130 days' credit, a $525 fine, and a one-year license suspension for the OVI. And for the reckless-operation count, at the sentencing hearing, the trial court imposed a 30-day sentence with 30 days' credit, a six-month license suspension, and a $250 fine. The judgment entry, however, states a different sentence on the reckless-operation charge: 130 days in jail with 130 days' credit.

Ezeh appealed. In two assignments of error, he argues that in the plea hearing, the trial court failed to (1) comply with R.C. 2937.07 and (2) determine that Ezeh's pleas were made knowingly, voluntarily, and intelligently.

LAW AND ANALYSIS

The trial court's failure to comply with R.C. 2937.07 did not prejudice Ezeh

In his first assignment of error, Ezeh argues that the trial court did not ask for an explanation of circumstances, which constituted a failure to comply with R.C. 2937.07. While we agree that the trial court failed to comply with the statute, the error was not plain and did not prejudice Ezeh.

When a defendant fails to object to a trial court's procedural error or omission, we may review for plain error. *State v. Williams,* 2024-Ohio-5076, ¶ 26 (1st Dist.). To obtain relief under the plain-error standard, a defendant must demonstrate that the error was obvious and the error prejudiced the defendant. *State v. Sowders*, 2023-Ohio-4498, ¶ 11 (1st Dist.). Reviewing courts must exercise great caution and find reversible plain error only under exceptional circumstances and "to prevent a manifest miscarriage of justice." (Internal citations omitted.) *State v. Rohrbaugh*, 2010-Ohio-3286, ¶ 6. In the context of a guilty plea, a defendant establishes prejudice by

demonstrating that but for the trial court's error, the defendant would not have pleaded guilty. *State v. Green*, 2011-Ohio-6451, ¶ 12 (10th Dist.), citing *State v. Jones*, 2003-Ohio-4513, ¶ 10 (10th Dist.).

R.C. 2937.07 states in part, "[u]pon receiving a plea of guilty, the court or magistrate *shall* call for an explanation of the circumstances of the offense from the affiant or complainant or the affiant's or complainant's representatives unless the offense to which the accused is pleading is a minor misdemeanor in which case the court or magistrate is not required to call for an explanation of the circumstances of the offense." (Emphasis added.)

The State bears the burden of ensuring that an explanation of circumstances appears on the record before a conviction is entered. *State v. Holley*, 2020-Ohio-5104, ¶ 21 (2d Dist.). It is immaterial whether the State or the defendant explains the circumstances, so long as the record affirmatively demonstrates that a sufficient explanation of circumstances was made. *Id.* Moreover, a defendant may waive the factual recitation otherwise required under R.C. 2937.07. *State v. Scudder*, 2025-Ohio-1267, ¶ 18 (1st Dist.).

Neither the State nor Ezeh explained the circumstances, and Ezeh did not waive this requirement. But Ezeh has not demonstrated prejudice. First, in exchange for Ezeh's guilty pleas, the State agreed to dismiss "all charges in cases 24CRB9979, 24CRB9967, 24CRB10191, 24TRD12300, and 24TRD16485, and then the attached charges in [the] other cases where [Ezeh] was entering [the] single guilty pleas." Ezeh clearly negotiated this deal with the State. Second, in his appellate brief, Ezeh does not assert that but for the trial court's error, he would not have entered his guilty pleas. His failure to make any such argument is fatal to his first assignment of error.

Because Ezeh failed to demonstrate that he was prejudiced by the trial court's failure to comply with the statute, we overrule his first assignment of error.

The Trial Court Complied with Crim.R. 11

Ezeh argues in his second assignment of error that the trial court failed to determine that he voluntarily entered his guilty pleas because the trial court did not reference "OVI" during the plea colloquy. We disagree.

When reviewing a trial court's compliance with constitutional and procedural protections regarding guilty pleas, this court conducts a de novo review of the record. *State v. Davis,* 2024-Ohio-2793, ¶ 15 (1st Dist.).

A guilty plea operates as a waiver of several fundamental constitutional rights and it is constitutionally valid only if entered knowingly, intelligently, and voluntarily, "with sufficient awareness of the relevant circumstances and likely consequences." *Bradshaw v. Stumpf*, 545 U.S. 175, 183 (2005), citing *Brady v. United States,* 397 U.S. 742, 748 (1970). In Ohio, these constitutional and procedural safeguards are effectuated through the plea colloquy required by Crim.R. 11. *State v. Mathews*, 2024-Ohio-1863, ¶ 13 (1st Dist.).

Crim.R. 11 does not require a trial court to specifically identify each offense by its formal title during a plea colloquy, nor must the court explain every element of the charged offense on the record. *See Bradshaw* at 183. Rather, what is dispositive is whether the record, when viewed in its entirety, demonstrates that the defendant understood the nature of the charge to which the plea was entered. *Id.*

Viewed under the totality of the circumstances, the record reflects that Ezeh understood the nature of the charges to which he pleaded guilty. Over the course of 14 preliminary hearings, Ezeh's OVI charges repeatedly were discussed with the trial court, making it implausible that Ezeh was unaware of the offense at the time he

entered his plea. The trial court recited the entire plea colloquy required by Crim.R. 11, including informing Ezeh that a guilty plea is "a complete admission" of guilt. *See* Crim.R. 11(E) and (B)(1). Thus, Ezeh necessarily understood the implications of his plea and the rights he waived. *See Mathews* at ¶ 13.

Moreover, on appeal, Ezeh does not even attempt to demonstrate that he would not have entered a guilty plea to the OVI charge if the trial judge had stated the exact name of the charge.

Because the totality of the circumstances demonstrates that Ezeh understood the nature of his charges and because he failed to argue that he was prejudiced, we overrule Ezeh's second assignment of error.

The trial court's judgment entry contains a clerical error

Ezeh did not assert as an assignment of error that the trial court improperly entered a sentence for the reckless-operation charge in which the time announced during the sentencing hearing—30 days–and the sentence contained in the judgment entry—130 days—differed. But this Court may sua sponte address such errors. Crim.R. 36; *accord State v. Williams*, 2023-Ohio-2886, ¶ 3 (1st Dist.) (holding that Crim.R. 36 permits correction of clerical mistakes to reflect what the court actually decided).

This error clearly was a clerical mistake. We remand the cause to the trial court to issue a nunc pro tunc entry correcting this clerical error.

CONCLUSION

We overrule Ezeh's assignments of error. But we sua sponte recognize that the trial court made a clerical error in its sentencing entry and remand the cause to the trial court to enter a nunc pro tunc entry with the correct sentence on the reckless-operation conviction. We affirm the trial court's judgments.

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.

NESTOR and **MOORE, JJ.,** concur.

To the clerk:

Enter upon the journal of the court on 8/21/2026.

Pursuant to App.R. 30, the clerk is directed to send all parties, or their counsel if represented, a copy of the court's judgment and note such action on the docket.

By: Jennifer A. Hensley
Administrative Judge