

IN THE COURT OF APPEALS  
TWELFTH APPELLATE DISTRICT OF OHIO  
WARREN COUNTY

|                      |   |                        |
|----------------------|---|------------------------|
| STATE OF OHIO,       | : |                        |
| Plaintiff-Appellee,  | : | CASE NO. CA2011-08-054 |
| - vs -               | : | <u>OPINION</u>         |
|                      | : | 12/30/2011             |
| JOEY R. TAYLOR,      | : |                        |
| Defendant-Appellant. | : |                        |

CRIMINAL APPEAL FROM WARREN COUNTY COURT OF COMMON PLEAS  
Case No. 11 CR 27223

David P. Fornshell, Warren County Prosecuting Attorney, Michael Greer, 500 Justice Drive, Lebanon, Ohio 45036, for plaintiff-appellee

Laufman, Jensen & Napolitano, LLC, Robert M. Jensen, 4310 Hunt Road, Cincinnati, Ohio 45242, for defendant-appellant

**RINGLAND, J.**

{¶1} Defendant-Appellant, Joey R. Taylor, appeals from a sentence imposed by the Warren County Court of Common Pleas. Appellant pled guilty to failure to comply with the order or signal of a police officer (failure to comply) and was sentenced to one year of incarceration followed by three years of postrelease control. For the reasons outlined below, we affirm the trial court's judgment.

{¶2} On April 11, 2011, the Warren County Grand Jury returned an indictment against appellant charging him with one count of failure to comply. The indictment was based upon appellant's alleged flight from a police officer. Appellant was operating a motor vehicle and disregarded a signal from a police officer to pull over. During the chase that ensued, appellant reached a speed of more than 100 m.p.h. The pursuit ultimately ended when appellant crashed the vehicle. A passenger was also in appellant's vehicle. Neither appellant nor his passenger sustained injuries from the accident.

{¶3} On May 27, 2011, appellant entered a guilty plea for failure to comply, a third-degree felony, and was sentenced as described above. Prior to appellant's plea, the trial court advised appellant that he would be subject to three years of postrelease control if he pled guilty to this offense.

{¶4} Appellant now appeals the imposition of postrelease control, raising one assignment of error:

{¶5} "THE TRIAL COURT ERRED IN IMPOSING PERCEIVED MANDATORY POST-RELEASE CONTROL AS A PART OF APPELLANT'S SENTENCE."

{¶6} Appellant argues that the trial court erred when it imposed three years of mandatory postrelease control. Appellant claims that this was error because his guilty plea to failure to comply did not include the "physical harm to a person" requirement necessary to impose mandatory postrelease control.

{¶7} Crim.R. 11(B)(1) states that a guilty plea is a "complete admission of the defendant's guilt." Further, once he entered his guilty plea, "appellant waived the right to require the state to prove his guilt beyond a reasonable doubt." *State v. Isbell*, Butler App. No. CA2003-06-152, 2004-Ohio-2300, ¶16. "Consequently, there is no evidence to consider, and the trial court was not required to determine whether a factual basis existed to support the guilty plea, prior to entering judgment on that plea." *Id.*, citing *State v. Caldwell* (Aug. 13,

2001), Butler App. No. CA99-08-144; and *State v. Wood* (1976), 48 Ohio App.2d 339.

{¶8} The offense of failure to comply is described in R.C. 2921.331(B) as follows: "No person shall operate a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person's motor vehicle to a stop." Appellant's guilty plea also included R.C. 2921.331(C)(5)(a), which provides that "[a] violation of (B) of this section is a felony of the third degree if the jury or judge as trier of fact finds any of the following by proof beyond a reasonable doubt \* \* \* (ii) [t]he operation of the motor vehicle by the offender caused a *substantial risk of serious physical harm to persons or property*." (Emphasis added.)

{¶9} We do not agree with appellant's contention that his guilty plea to failure to comply did not include the "physical harm to a person" requirement necessary to impose mandatory postrelease control. A plea "provides the necessary proof of the elements of the crime and sufficient evidence to support the conviction." *Isbell* at ¶16. By pleading guilty, "the accused acknowledges full responsibility for all legal consequences of guilt and consents to whatever judgment and sentence the court may legally impose." *State v. Fore* (1969), 18 Ohio App.2d 264, 267. Thus, by pleading guilty to failure to comply, appellant was admitting that his operation of the vehicle "caused a substantial risk of serious harm to persons or property." Accordingly, the imposition of mandatory postrelease control for three years pursuant to R.C. 2967.28(B)(3) was proper. See *State v. Pitts*, Ottawa App. No. OT-05-036, 2006-Ohio-3182, ¶20 (*reversed due to improper colloquy*).

{¶10} Further, although appellant's plea rendered a review of the facts unnecessary, appellant's conduct clearly satisfied the R.C. 2967.28 physical harm requirement. Appellant caused or threatened to cause harm to a person when he eluded police, drove at speeds over 100 m.p.h., and ultimately crashed, all while traveling with a passenger in his automobile.

{¶11} Appellant's sole assignment of error is overruled.

{¶12} Judgment affirmed.

HENDRICKSON, P.J., and PIPER, J., concur.