

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
WOOD COUNTY

State of Ohio

Court of Appeals No. WD-11-048

Appellee

Trial Court No. 2009CR0298

v.

Maragene Graham

DECISION AND JUDGMENT

Appellant

Decided: March 8, 2013

* * * * *

Paul A. Dobson, Wood County Prosecuting Attorney, Aram M. Ohanian and David E. Romaker, Jr., Assistant Prosecuting Attorneys, for appellee.

Eric Allen Marks, for appellant.

* * * * *

OSOWIK, J.

{¶ 1} This is an appeal from a judgment of the Wood County Court of Common Pleas, which sentenced appellant, Maragene Graham, to a 45-day term of incarceration, joint and several restitution equivalent to the co-defendant, 60 days of electronic monitoring, and three years of community control. Appellant was initially indicted on

one count of arson, in violation of R.C. 2909.02, a felony of the first degree. Appellant subsequently entered into a voluntary plea agreement, pleading no contest to an amended charge of attempted arson, in violation of R.C. 2909.03(A)(2) and 2923.02(A), a felony of the fifth degree. For the reasons set forth below, this court affirms the judgment of the trial court.

{¶ 2} Appellant sets forth the following sole assignment of error:

1. THE TRIAL COURT ERRED IN ACCEPTING APPELLANT'S
NO CONTEST PLEA BECAUSE IT WAS NOT VOLUNTARILY
MADE.

{¶ 3} The following undisputed facts are relevant to this appeal. On April 18, 2008, appellant's home in Fostoria, Ohio was destroyed by fire. Appellant resided in the home with her husband and her adult daughter. Appellant's husband was out of town at the time of the fire. Appellant and her daughter, the co-defendant, had left the home and gone to the local Wal-Mart immediately prior to the fire. The fire was quickly observed and reported by neighbors. Appellant was notified of the fire as she and her daughter arrived at Wal-Mart. They immediately returned home.

{¶ 4} Significantly, the professional fire investigator dispatched by the insurer concluded that the fire had been intentionally set via flammable liquid being poured and ignited on the living room floor. The state fire marshal's office likewise investigated and concluded that arson was the cause of the fire. Notably, in conjunction with these

findings, certain valuables were inexplicably removed from the home by the parties prior to the fire.

{¶ 5} On June 18, 2009, appellant was indicted on one count of aggravated arson, in violation of R.C. 2909.02, a felony of the first degree, and one count of insurance fraud, in violation of R.C. 2913.47(B)(1), a felony of the third degree. On June 6, 2011, a jury trial commenced.

{¶ 6} On the second day of trial, appellant entered into a voluntary plea agreement. Appellant pled no contest to an amended charge of attempted arson, in violation of R.C. 2909.03(A)(2) and 2923.02(A), a felony of the fifth degree.

{¶ 7} Consistent with the co-defendant's outcome, appellant was sentenced to joint and several restitution in the amount of \$2,764.42, constituting the documented, reported costs incurred by the office of the state fire marshal in connection to this matter. Additionally, appellant was sentenced to a 45-day term of incarceration, 60 days electronic monitoring, and three years of community control.

{¶ 8} In the sole assignment of error, appellant contends that her plea was not voluntarily made. Crim.R. 11(C)(2) delineates the requirements for a proper, voluntary plea. Appellant now asserts that at sentencing she "was pressured into taking this deal and [she] did it for the best intentions of [her] daughter and [her] grandson." This court has held that "the trial court's acceptance of a guilty or no-contest plea will be considered knowing, intelligent, and voluntary so long as, before accepting the plea, the trial court

substantially complies with the procedure set forth in Crim.R. 11(C).” *State v. Gonzalez*, 193 Ohio App.3d 385, 2011-Ohio-1542, 952 N.E.2d 502, 509 (6th Dist.).

{¶ 9} Crim.R. 11(C)(2)(a) states, in pertinent part, that the trial court shall not accept a plea without first “[d]etermining that the defendant is making the plea voluntarily, with understanding of the nature of the charges and of the maximum penalty involved.” Upon our review of the record, it is clear the trial court engaged appellant in a detailed and exhaustive colloquy regarding each of her Crim.R. 11 rights. The trial court also fully advised appellant of the consequences of accepting the voluntary plea agreement. Lastly, the trial court asked the appellant whether her plea of no contest was being given voluntarily. The appellant unequivocally responded in the affirmative. The record shows Crim.R. 11(C)(2)(a) was adhered to in this case.

{¶ 10} Contrary to appellant’s unsupported contentions of an improper plea, the record reflects that appellant was both well-informed and understood the rights she was relinquishing. This court has held that “[c]laims that counsel recommended the plea agreement and pressured the defendant to accept a plea bargain are of limited weight where the plea was knowingly and voluntarily made.” *State v. Lawson*, 6th Dist. No. L-08-1153, 2009-Ohio-3216. The record is devoid of any objective or compelling evidence of impropriety in connection to the handling of the plea. Appellant’s plea conformed with Crim.R. 11. Appellant’s sole assignment of error is not well-taken.

{¶ 11} On consideration whereof, the judgment of the Wood County Court of Common Pleas is hereby affirmed. Appellant is ordered to pay the costs of this appeal pursuant App.R.24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Mark L. Pietrykowski, J.

JUDGE

Arlene Singer, P.J.

JUDGE

Thomas J. Osowik, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.