

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

STATE OF OHIO,	:	APPEAL NO. C-070427
Plaintiff-Appellee,	:	TRIAL NO. B-0700697
vs.	:	
WILLIAM HART,	:	<i>JUDGMENT ENTRY.</i>
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

On January 19, 2007, appellant William Hart got into a fight with David Howard at a sports bar. Later, outside the bar, Hart shot David and his brother Dionne Howard. Hart was indicted for four counts of felonious assault, one count of having a weapon while under a disability, and one count of receiving stolen property. After the trial court denied his motion to suppress Dionne Howard's identification of him, Hart pleaded guilty to two counts of felonious assault with specifications and to having a weapon while under a disability. The trial court imposed an agreed sentence that totaled five years. Hart now asserts three assignments of error, none of which is well taken.

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

In his first assignment of error, Hart asserts that the trial court erred when it denied his motion to suppress. His claim is that the photo lineup used to identify him was impermissibly suggestive. But when he pleaded guilty while represented by competent counsel, he waived the right to contest on appeal any nonjurisdictional defects in the proceedings, including the denial of his motion to suppress.² The first assignment of error is not well taken.

In his second assignment of error, Hart maintains that he did not enter a constitutionally valid plea. He claims that he was rushed to enter the plea because the trial court had told him that there was a jury in the hall and that he had to decide whether he wanted to accept the plea agreement that had been offered by the state. A review of the record reveals that Hart had had the entire morning to decide what to do, and that he had changed his mind several times. The trial court explained his options clearly and did not pressure him into pleading guilty. After Hart had agreed to plead guilty, the trial court conducted a Crim.R. 11 colloquy with him and halted the proceedings twice to be certain that Hart understood everything. The record shows that Hart entered a knowing, intelligent, and voluntary plea. The second assignment of error is overruled.

In his third assignment of error, Hart states that he was denied the effective assistance of counsel. He maintains that his trial counsel did not thoroughly review all his plea options with him. To be successful on this claim, Hart must demonstrate that his counsel violated an essential duty owed to him, and that he suffered prejudice from

² *Ross v. Court* (1972), 30 Ohio St.2d 323, 324, 285 N.E.2d 25

that violation.³ This court must strongly presume that Hart's counsel rendered adequate assistance and exercised reasonable professional judgment.⁴

A review of the record demonstrates that defense counsel was well prepared for both a suppression hearing and a trial if necessary. Counsel then negotiated a plea bargain and an agreed sentence to which Hart consented. The record does not support Hart's claim that his counsel did not fully review his available plea options with him. During the plea hearing, the court asked Hart, "Your attorney explained everything in this case?" Hart responded, "Yes." Later, when Hart was noncommittal about having read the plea agreement, the trial court ordered a recess so that Hart's attorney could read the entire plea-agreement form to Hart. After the recess, Hart acknowledged to the court that he understood the form and that his attorney had answered any questions that Hart had. We conclude that Hart has not demonstrated that his counsel was ineffective. The third assignment of error is not well taken.

We therefore affirm the judgment of the trial court.

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.

SUNDERMANN, P.J., HILDEBRANDT and CUNNINGHAM, JJ.

To the Clerk:

Enter upon the Journal of the Court on March 5, 2008

per order of the Court _____.

Presiding Judge

³ See *State v. Bradley* (1989), 42 Ohio St.3d 136, 142, 538 N.E.2d 373; *Strickland v. Washington* (1984), 466 U.S. 668, 687, 104 S.Ct. 2052.

⁴ *Strickland*, supra, at 689.