

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

STATE OF OHIO,	:	APPEAL NO. C-070861
Plaintiff-Appellee,	:	TRIAL NO. B-0703516
vs.	:	JUDGMENT ENTRY.
ROOSEVELT McDONALD,	:	
Defendant-Appellant.	:	

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

Roosevelt McDonald was indicted for two counts of murder.² Under a plea agreement, McDonald pleaded guilty to involuntary manslaughter³ and felonious assault.⁴ The proposed sentence was 13 years in prison. At his plea hearing, McDonald stipulated that his actions had violated both the statute prohibiting involuntary manslaughter and the statute prohibiting felonious assault. After the trial court informed him of the possible sentences, McDonald pleaded guilty and the trial court accepted his plea.

McDonald's original brief argued that he should have been permitted to withdraw his guilty plea because the trial court had not properly informed him of his right to a trial without self-incrimination. A recent Ohio Supreme Court case mandates strict compliance with Crim.R. 11(C)(2)(c).⁵ But McDonald moved to strike that brief, and we granted his motion. Instead, McDonald now argues that he

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

² R.C. 2903.02(A) and 2903.02(B).

³ R.C. 2903.04(A).

⁴ R.C.2903 .11(A).

⁵ *State v. Veney*, 120 Ohio St.3d 176, 2008-Ohio-5200, __ N.E.2d __.

was improperly sentenced twice for allied offenses of similar import. His current brief specifically states that he does not wish to contest his guilty plea.

Though the two offenses he pleaded guilty to could have been allied offenses of similar import, the state of the law was in flux at the time of his sentencing. And because this case involved a guilty plea, there are not sufficient facts in the record to determine that issue. But the parties made a plea agreement—with an agreed proposed sentence of 13 years. Now, McDonald seeks to have his cake and eat it too. He wants one benefit of his plea bargain—he does not wish to withdraw his guilty plea because his murder charge would be back on the table. Yet he wants to forego the part of his plea bargain that called for consecutive sentences for the two charges. He cannot have it both ways.

At the hearing below, McDonald did not object to his convictions or his sentences—in fact, he and the state proposed the convictions as a plea bargain. Thus, he has invited any claimed error.⁶ And the record does not demonstrate the alleged error. We therefore affirm the trial court’s convictions and sentences.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App. R. 27. Costs shall be taxed under App.R. 24.

PAINTER, P.J, SUNDERMANN and DINKELACKER, JJ.

To the Clerk:

Enter upon the Journal of the Court on January 14, 2009
per order of the Court _____
Presiding Judge

⁶ *State v. Bey* (1999), 85 Ohio St.3d 487, 493, 1999-Ohio-283, 709 N.E.2d 484.