

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

STATE OF OHIO,	:	APPEAL NO. C-150710
	:	TRIAL NO. B-1503472
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
RICHARD DOMINGUEZ,	:	
	:	
Defendants-Appellant.	:	

We consider this appeal on the 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. 11.1.1.

Defendant-appellant Richard Dominguez appeals convictions for aggravated possession of drugs under R.C. 2925.11(A), possession of cocaine under R.C. 2925.11(A), resisting arrest under R.C. 2921.33(A), possessing drug abuse instruments under R.C. 2925.12(A), and illegal use or possession of drug paraphernalia under R.C. 2925.14(C)(1). We find no merit in his two assignments of error, and we affirm his convictions.

In his first assignment of error, Dominguez contends that the trial court erred in overruling his motion to suppress. Dominguez failed to meet his burden to prove that he had a reasonable expectation of privacy in the garage. *See State v. Williams*, 73 Ohio St.3d 153, 166, 652 N.E.2d 721 (1995); *State v. Brown*, 1st Dist. Hamilton No. C-120327, 2013-Ohio-2720, ¶ 11. He presented no evidence to show that he had a right to be in the garage as an owner, lessee, or even an overnight guest. *See Brown* at ¶ 12-14;

State v. Fleming, 2d Dist. Clark No. 2003 CA 71, 2004-Ohio-5278, ¶ 12-13. Consequently, he had no standing to challenge the search of the garage. *See Williams* at 166; *Brown* at ¶ 12.

Nevertheless, Dominguez did have standing to challenge the seizure of his person. The police officer saw Dominguez using what he believed to be a scale for weighing drugs in plain view and Dominguez's response to the officer was a "blank stare look." Thus, the officer had sufficient facts and circumstances within his knowledge to warrant a prudent person in believing that Dominguez was committing or had committed the offense of possession of drug paraphernalia. Therefore, the officer had probable cause to arrest him. *See State v. Heston*, 29 Ohio St.2d 152, 155-156, 280 N.E.2d 376 (1972); *State v. Erkins*, 1st Dist. Hamilton No. C-110675, 2012-Ohio-5372, ¶ 33.

Subsequently, when the police officer asked Dominguez to step outside of the garage, Dominguez tried to "pull away" and had to be subdued by the officer. Dominguez asked the officer to go into the garage to get him a drink, and when the officer did so, he saw drugs in plain view.

Under the circumstances, we cannot hold that Dominguez's Fourth Amendment rights were violated. Consequently, the trial court did not err in overruling his motion to suppress, and we overrule his first assignment of error.

In his second assignment of error, Dominguez argues that his conviction for resisting arrest was based on insufficient evidence because the state failed to show that he was lawfully arrested. But the case did not proceed to trial. Instead, Dominguez pleaded no contest. When a defendant pleads no contest, he admits to the truth of the facts alleged in the indictment. Crim.R. 11(B)(2). Where the indictment contains sufficient allegations to state an offense, the court must find the defendant guilty. *State*

OHIO FIRST DISTRICT COURT OF APPEALS

v. Byrd, 81 Ohio St.3d 582, 584, 692 N.E.2d 1013 (1998); *State v. Campbell*, 1st Dist. Hamilton No. C-140372, 2015-Ohio-1464, ¶ 17.

The indictment alleged that Dominguez “by force resisted the lawful arrest of himself.” Further, the state’s statement of the facts did not contradict the charged offense by negating an essential element. Therefore, the trial court did not err in finding Dominguez guilty of resisting arrest. *See Campbell* at ¶ 18. Consequently, we overrule his second assignment of error and affirm the trial court’s judgment.

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

FISCHER, P.J., DEWINE and MOCK, JJ.

To the clerk:

Enter upon the journal of the court on October 7, 2016
per order of the court _____.
Presiding Judge