2018 IL App (1st) 163013-U

No. 1-16-3013

October 29, 2018

First Division

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 11 CR 9498
	)	
JOHN MARTIN,	)	Honorable
	)	Evelyn B. Clay,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE WALKER delivered the judgment of the court.
Justices Pierce and Griffin concurred in the judgment.

ORDER

¶ 1 *Held*: We affirm defendant's conviction for failing to report leaving the scene of a motor vehicle accident where the evidence was sufficient to show defendant had knowledge his accident involved another person, and the trial court substantially complied with Illinois Supreme Court Rule 401(a) when admonishing defendant before accepting his waiver of counsel.

¶ 2 Following a bench trial, defendant John Martin was found guilty of failing to report leaving the scene of a motor vehicle accident resulting in personal injury (625 ILCS 5/11-401(b) (West 2010)) and sentenced to seven years' imprisonment. On appeal, he argues the evidence

was insufficient to prove him guilty beyond a reasonable doubt, and the trial court's failure to comply with Illinois Supreme Court Rule 401(a) (eff. July 1, 1984) rendered his pretrial waiver of his right to counsel unknowing and involuntary. We affirm.

¶ 3 BACKGROUND

¶ 4 Defendant was charged by indictment with one count of leaving the scene of a motor vehicle accident resulting in personal injury (625 ILCS 5/11-401(a) (West 2010)) and one count of failure to report leaving the scene of a motor vehicle accident resulting in personal injury (625 ILCS 5-11-401(b) (West 2010)) stemming from acts occurring on May 29, 2011.

¶ 5 Prior to trial, the court provided defendant copies of the charging instrument and stated, "your plea of not guilty to the charges of leaving the scene of a motor vehicle accident involving personal injuries, Count 1, and leaving the scene of a motor vehicle accident Count 2. Your plea of not guilty is spread of record." Defendant informed the court of his desire to represent himself, explaining "there's a conflict between me and [the assistant public defender]." He told the court he did not have a private attorney and would "ha[ve] to go pro se." Defendant informed the court that on a previous date, he "exercised [his] right to represent [himself] and for a speedy trial." The court ordered defendant to be evaluated by forensic clinical services and set a date "by agreement." Defendant stated, "No, ma'am. I don't agree to it. I don't agree to anything to break my speedy trial, your honor."

¶ 6 Defendant was later found fit to stand trial. He again expressed his desire to represent himself. Defendant told the court that he attended "a little junior college," but he did not know the class of the offense. The assistant public defender then stated "we discussed a little bit about the facts. I did not tell him the class. It's a Class Two and a Class Four." After defendant stated

he did not know the penalties for a Class 2 offense, the assistant public defender stated, "[t]hree to seven." As to the Class 4 offense, defendant stated, "[s]he said one is seven the other one a year or something I guess, I'm saying."

¶ 7 The assistant public defender informed the court that defendant "is not extendible." Defendant stated, "I don't think l'll be punished here, ma'am. I haven't done anything." The court then told defendant, "[y]ou're facing, if you are found guilty of Class Two three to seven years, from probation up to three to seven years in the penitentiary and that would be followed by two years of being on parole." Defendant stated he understood.

¶ 8 Defendant explained that he previously represented himself in court when he was found guilty of "reefer possession" in 1964. Defendant stated the offense "carried two or three" and "it was reversed." He further stated, "in 1989 I had probably about nine or ten cases and represented myself and I got twenty years in the penitentiary in '87 I think. In '89 it was reversed also so I'm not having any problem as far as my expertise in front of you, it's just the representation of the evidence to you."

¶ 9 The court told defendant if he were to represent himself, he would have to represent himself in the same manner as other attorneys do before the court. Defendant stated he understood. The court stated defendant would be "up against" licensed attorneys who had been to law school. It asked defendant, "[d]o you wish to undertake your own defense, you with no license, no law license and no training in a law school, do you wish to undertake your own representation presenting your own defense?" Defendant responded in the affirmative. The court then advised defendant that it would allow him to represent himself, no public defender would be

assigned to assist him, and defendant was responsible "in terms of doing your investigation and paying for it." Defendant stated he understood.

¶ 10 On August 24, 2011, defendant informed the court that he intended to present the affirmative defense of involuntary intoxication from medication. He further stated, "[y]ou know I got a speedy trial, right?" and that he had been demanding trial "every time" he had been in court. Defendant then disputed whether he has ever been represented by the public defender. He told the court: "I have got a choice of who I want to represent me, and I explicitly told the Court that I didn't want the public defender because I knew what type of controversy I was going to have with them."

¶ 11 At a subsequent hearing, the court instructed defendant that to raise his involuntary intoxication defense, he needed to produce documents and the names of witnesses to support that affirmative defense. The record reflects that on several other court dates, defendant told the court that he had sent letters and made phone calls to obtain information related to his affirmative defense but was having difficulty due to being incarcerated. Defendant informed the court of several witnesses he intended to call at trial, including "Doctor Ali." The court advised defendant that he needed to subpoena witnesses and obtain any documents or other evidence himself, including video recordings. The court also asked the State and an assistant public defender to assist defendant in subpoenaing witnesses and obtaining evidence.

¶ 12 Before trial, on October 24, 2011, the court noted it had received a document from the "VA hospital" and noted defendant's witnesses were not present. Defendant told the court he would proceed to trial without his witnesses. The following evidence was presented at trial.

¶ 13 On May 29, 2011, around 9:30 p.m., Andre Norfleet (Norfleet) was in the 8100 block of South Cottage Grove walking to his car. The car, a 2001 Buick Century, was parked on Cottage Grove facing north. As Norfleet was walking to his car, he heard a car engine that sounded like a car driving quickly. The next thing Norfleet recalled was "going up in the air" because a black car hit him in the right leg. He then landed on his head in the street. The car "kept going straight northbound" on Cottage Grove," and Norfleet was unable to see the driver. Norfleet was unable to move because of the injuries to his head and leg. Paramedic Phillip Grooms responded to the scene and took Norfleet to the hospital, where Norfleet was treated for a broken leg and head injuries.

¶ 14 Michael Potter (Potter) was driving southbound on Cottage Grove, between 80th and 81st Streets, when he "heard an impact that was pretty loud." Potter looked towards the opposite side of the street where he heard the impact and saw a black car coming towards his own lane. He also saw a body tumbling in the street. Potter swerved to avoid the car, which continued driving northbound on Cottage Grove.

¶ 15 Potter believed he witnessed a hit and run, so he made a U-turn and went north, following the car. He also called 911 and reported the incident. The car was traveling at a high rate of speed. Potter lost sight of it briefly but then observed it heading east on 78th Street "going through the stop signs." Potter continued to follow the car, which passed Greenwood Avenue and reached a dead end. The car turned around and proceeded north on Greenwood. Potter continued to follow the car, eventually getting close enough to read the license plate number, which he communicated to the 911 dispatcher.

¶ 16 As the car reached 76th and Greenwood, it pulled over to the right side of the road and parked. Potter stopped less than a half block away and observed "an older gentlemen" get out of the driver's side of the car and stumble to the front of the car. The area was illuminated by artificial lighting. The older man, identified in court as defendant, looked around both sides of car, possibly for damage. Defendant "came back around to the driver's side" and leaned on the car for about two to three minutes. According to Potter, "[i]t seemed as though [defendant] was the only person in the car that time."

¶ 17 Defendant got back into the car and drove away. The car turned east on 76th Street and proceeded towards South Chicago Avenue. At the corner of 76th and South Chicago, Potter flagged down Officer Edwin Jones (Jones), who pulled defendant over about two blocks away. Potter testified defendant "was the only one in the vehicle," which had damage to the front passenger fender and windshield.

¶ 18 After Potter's testimony, the State informed the court that Officer Jones was on furlough and sought a continuance. Defendant noted he was "still sitting in jail" and requested an I-bond. The court inquired of the State whether defendant was probationable. The State responded that defendant was not probationable and, based on his background, defendant is "Class X." Defendant responded, with respect to probation, "that's what the judge said it was." He further asserted, "I'm not no Class X." After learning that defendant had 13 prior instances where he had failed to appear in court, the trial court put defendant on electronic monitoring with a "D bond" of $60,000.

¶ 19 Officer Jones continued to be unavailable for trial, and the parties agreed to stipulate to his testimony. The parties stipulated that Chicago police evidence technician Edwin Jones would

testify that he was in a marked squad car on May 29, 2011, around 10:15 p.m., when he was flagged down by Potter. Potter told him he saw "a black Ford Escort hit the victim Andre Norfleet at 8041 S. Cottage Grove Ave. and continue to drive away." Potter pointed to the black Escort, and Jones followed it with his signals activated. Jones saw defendant was driving, and no one else was in the car. After about two blocks, the car pulled over at 7445 South South Chicago Avenue. Jones noticed the windshield was cracked and asked defendant what happened. Defendant responded, "a rock hit the car." Defendant refused to exit the car, made a call on his cell phone, and never mentioned any medications to Jones. Jones left when Officers Morsi and Reyes arrived at the scene.

¶ 20 Officer Morsi testified she responded to a call of a hit and run and observed Norfleet in an ambulance with cuts on his face and a "mangled" leg. Norfleet told her that he had been struck by a vehicle. She saw damage to the driver's side and passenger's side of his vehicle.

¶ 21 Morsi then went to the area of 7445 South South Chicago and observed defendant sitting alone in the driver's seat of a Ford Escort. The vehicle had damage to the front bumper and "the windshield was pushed in, into the vehicle." Defendant was "highly agitated," "combative," and had "slurred speech" with a "moderate smell of alcohol on his breath." Morsi placed defendant under arrest and transported him to the police station. Defendant was *Mirandized* and denied being injured or ill, denied being under the influence of alcohol or drugs, and denied taking any medication within the previous six hours. Defendant never told Morsi that he had taken prescription painkillers. Morsi observed no obvious signs of illness or injury on defendant.

¶ 22 After the State rested, defendant noted that neither Dr. Ali nor a former prosecutor was present in court to testify on his behalf. Defendant requested to admit his prescription form into

evidence, but the court denied it due to lack of foundation. Defendant then rested. He argued in closing that no one witnessed him hit the victim. He was taking Vicodin prescribed by the VA hospital, and he cannot know what happened because he was "out cold." He asserted he could not have been driving the vehicle because he was "knocked out." The court commented that none of what defendant was saying was in the record.

¶ 23 The court found defendant guilty of one count of leaving the scene of a motor vehicle accident resulting in personal injury and one count of failure to report leaving the scene of a motor vehicle accident resulting in personal injury, noting "the evidence was rather overwhelming." The court found Potter to be a credible witness who saw the accident and found that defendant "was solo in that black car." After the State informed the court that "defendant is [C]lass X mandatory by background," the court revoked bond. The court denied defendant's posttrial motion and proceeded to sentencing.

¶ 24 At sentencing, the State argued, *inter alia*, defendant had several prior felony convictions, including for 1985 and 1988 burglaries as reflected on the presentence investigation report, which made him Class X mandatory. In mitigation, defendant argued the two burglary cases the State cited had been reversed. The court declined to sentence defendant as a Class X offender without certified copies of the convictions, noting "[s]o this is a class two that [defendant] stand[s] to be sentenced on."

¶ 25 On February 24, 2012, the court sentenced defendant to seven years' imprisonment on the Class 2 offense of failure to report leaving the scene of a motor vehicle accident resulting in personal injury. It noted defendant's criminal background but stated "the court does not consider

those two cases that you indicate were reversed and not remanded. The court did not consider that." Defendant then stated twice, "I want appeal."

¶ 26 No notice of appeal was prepared on defendant's behalf. He later filed a postconviction petition, which the circuit court denied. This court reversed the denial of defendant's postconviction petition and remanded with instructions that the circuit court order the clerk of the circuit court to file a notice of appeal on defendant's behalf. See *People v. Martin*, No. 1-14-2722 (October 11, 2016) (unpublished order under Illinois Supreme Court Rule 23(c)). A notice of appeal, deemed to be timely filed from the February 24, 2012, circuit court sentencing order, was then filed.

¶ 27 ANALYSIS

¶ 28 On appeal, defendant argues the evidence was insufficient to prove he had knowledge that the accident involved another person, a necessary element for the offense of failing to report leaving the scene of a motor vehicle accident resulting in personal injury. Specifically, he asserts that, while there was some evidence that defendant was aware he was in an accident, there was no evidence showing defendant had knowledge of the existence of an injured person.

¶ 29 When reviewing the sufficiency of the evidence, we must determine whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could find the elements of the offense beyond a reasonable doubt. *People v. Lloyd*, 2013 IL 113510, ¶ 42. In a bench trial, the trial judge, as the trier of fact, has the duty of determining the credibility of witnesses, weighing the evidence and any inferences derived therefrom, and resolving any conflicts in the evidence. *People v. Brown*, 2017 IL App (1st) 142877, ¶ 39. We will not substitute our judgment for that of the trier of fact. See *People v. Ortiz*, 196 Ill. 2d 236, 259

(2001). A conviction will not be overturned unless the evidence is so improbable, unsatisfactory, or inconclusive that a reasonable doubt of defendant's guilt exists. *People v. Belknap*, 2014 IL 117094, ¶ 67.

¶ 30 Defendant was convicted of failing to report leaving the scene of a motor vehicle accident involving personal injuries under section 11-401(b) of the Illinois Vehicle Code (625 ILCS 5/11-401(b) (West 2010)), a Class 2 felony. See 625 ILCS 5/11-401(d) (West 2010)). That section provides:

> "Any person who has failed to stop or to comply with the requirements of paragraph (a) shall, as soon as possible but in no case later than one-half hour after such motor vehicle accident, or, if hospitalized and incapacitated from reporting at any time during such period, as soon as possible but in no case later than one-half hour after being discharged from the hospital, report the place of the accident, the date, the approximate time, the driver's name and address, the registration number of the vehicle driven, and the names of all other occupants of such vehicle, at a police station or sheriff's office near the place where such accident occurred. No report made as required under this paragraph shall be used, directly or indirectly, as a basis for the prosecution of any violation of paragraph (a)." 625 ILCS 5/11-401(b) (West 2010).

¶ 31 Section 11-401(a) of the Illinois Vehicle Code provides:

> "The driver of any vehicle involved in a motor vehicle accident resulting in personal injury to or death of any person shall immediately stop such vehicle at the scene of such accident, or as close thereto as possible and shall then forthwith return to, and in every event shall remain at the scene of the accident until the requirements of Section 11-

403 have been fulfilled.[1] Every such stop shall be made without obstructing traffic more than is necessary." 625 ILCS 5/11-401(a) (West 2010).

¶ 32 Defendant does not dispute that the vehicle he was driving was involved in an accident and he left the scene without reporting within the required time period. He only argues the evidence failed to show he had knowledge the accident he was in involved another person. Knowledge that an accident involved another person is an essential element of the offense of leaving the scene and failing to report the accident. See *People v. Digirolamo*, 179 Ill. 2d 24, 42 (1997) ("section 11-401 requires that a motorist have knowledge that he or she was involved in an accident that involved another person"). Knowledge may be proven by circumstantial evidence. *Id.* Moreover, "knowledge that another person was involved in the accident may be imputed to a driver from the circumstances of the accident." *Id.*

¶ 33 Viewing the evidence in the light most favorable to the State, we find it was sufficient to show defendant had knowledge the accident involved another person. The evidence showed that defendant struck Norfleet in the right leg, causing him to go airborne and tumble to the street. Potter then saw defendant's car coming towards his own lane and swerved to avoid the car, which continued driving northbound on Cottage Grove. Eventually, in a well-lit area, Potter saw defendant stop, get out of the car, and walk around both sides of the car looking for damage. Potter observed damage to the fender and windshield of defendant's car, which was corroborated by Jones and Morsi. Crucially, Morsi testified that defendant's windshield was pushed into his vehicle, which would suggest Norfleet's body hit the windshield. Given these circumstances,

[1] Section 11-403 requires, *inter alia*, any driver of a motor vehicle involved in a motor vehicle accident resulting in injury or death to a person or damage to a vehicle driven or attended by a person to give the driver's name, address, registration number and owner of the vehicle being driven to the other person involved in the accident, and to render reasonable assistance to any person injured. 625 ILCS 5/11-403 (West 2010).

specifically that defendant stopped to observe the damage to his car and that his front bumper and windshield were broken, a trier of fact could find that defendant had knowledge that his accident involved another person. Accordingly, we conclude a rational trier of fact could find defendant guilty of failing to report leaving the scene of a motor vehicle accident resulting in personal injury.

¶ 34 Defendant asserts even if evidence was presented indicating he had knowledge of an accident, it does not show that he had knowledge it involved another person. He contends he never told anyone he may have hit a person and explained to police his windshield was cracked because "a rock hit the car." However, "[a] trier of fact is not required to disregard inferences which flow normally from the evidence before it, nor must the trier of fact search out all possible explanations consistent with innocence, and raise those explanations to a level of reasonable doubt." *In re Jonathon C.B.*, 2011 IL 107750, ¶ 60. The trial court did not have to accept defendant's statement that "a rock hit the car," especially in light of the evidence that, not only was the windshield pushed in, but there was damage to the front bumper of defendant's car, the area of the car that would have hit Norfleet in the leg and sent him "going up in the air." Accordingly, the evidence was sufficient to prove defendant had knowledge that the accident involved another person as required to sustain the conviction for failing to report leaving the scene of a motor vehicle accident resulting in personal injury.

¶ 35 Defendant next argues the trial court failed to ensure his pretrial waiver of counsel was knowing and voluntary where it informed him he faced a Class 2 sentence if convicted but he actually faced a Class X sentence. According to defendant, the trial court's resulting failure to inform him of the correct sentencing range failed to comply with Rule 401(a) and requires his

conviction be reversed and the matter remanded for a new trial. The State responds that defendant's claim of improper admonishments has been forfeited because he failed to raise it in the trial court. Defendant concedes he did not preserve the issue, but asks this court to review it under the plain-error doctrine.

¶ 36 Under the plain-error doctrine, unpreserved claims of error can be reviewed when (1) the evidence at trial is closely balanced, or (2) the error is so serious it affected the fairness of the trial and challenged the integrity of the judicial process. *People v. Sebby*, 2017 IL 119445, ¶ 48. The first step under either prong of the plain-error doctrine is to determine whether there was a clear or obvious error. *Id.* ¶ 49. When a defendant fails to establish plain error, that procedural default must be honored. *People v. Naylor*, 229 Ill. 2d 584, 593 (2008).

¶ 37 The sixth amendment to the United States Constitution guarantees a defendant in a criminal proceeding both the right to the assistance of counsel and the right to proceed without counsel. *People v. Wright*, 2017 IL 119561, ¶ 39 (citing *Faretta v. California*, 422 U.S. 806, 832-34 (1975)). Although the decision to proceed without counsel may seem unwise, a defendant may do so as long as the waiver of counsel is voluntary, knowing, and intelligent. *Id.*

¶ 38 Rule 401(a) governs the acceptance of a defendant's waiver of counsel in Illinois. It provides:

> "Any waiver of counsel shall be in open court. The court shall not permit a waiver of counsel by a person accused of an offense punishable by imprisonment without first, by addressing the defendant personally in open court, informing him of and determining that he understands the following:
>
> (1) the nature of the charge;

(2) the minimum and maximum sentence prescribed by law, including when applicable, the penalty to which the defendant may be subjected because of prior convictions or consecutive sentences; and

(3) that he has a right to counsel and, if he is indigent, to have counsel appointed for him by the court." Ill. S. Ct. R. 401(a).

¶ 39 Strict compliance with Rule 401(a) is not required "if the record indicates that the waiver was made knowingly and voluntarily, and the admonishment the defendant received did not prejudice his rights." *People v. Haynes*, 174 Ill. 2d 204, 236 (1996). "While a finding whether a defendant's waiver of counsel was knowing and voluntary is reviewed for an abuse of discretion [citation], the legal issue of whether the court failed to substantially comply with Supreme Court Rule 401(a) admonishments is a question of law that we review *de novo*." *People v. Pike*, 2016 IL App (1st) 122626, ¶ 114.

¶ 40 Viewing the record, we find the trial court substantially complied with Rule 401(a). In reaching this conclusion, we find our supreme court's decision in *People v. Wright*, 2017 IL 119561, to be instructive. In *Wright*, the defendant asserted the trial court's admonishments failed to substantially comply with Rule 401(a) because the trial court incorrectly advised defendant he faced a maximum sentence of 60 years' imprisonment, where he actually faced a maximum of 75 years' imprisonment. *Wright*, 2017 IL 119561, ¶¶ 33, 38.

¶ 41 Our supreme court held that although the admonishments incorrectly understated the maximum sentence, the trial court provided the defendant with a copy of the charging instrument and correctly admonished him of the nature of the charges against him and of his right to counsel. *Id.* ¶¶ 53-54. The court held that the defendant's waiver of counsel was made freely,

knowingly, and intelligently, and pointed out the defendant had attended college and represented himself previously on a felony case. *Id.* ¶ 55. It noted the defendant "expressed his desire to represent himself at the beginning of this case and reiterated that desire a number of times thereafter, even after being informed by the trial court of the potential pitfalls of doing so." *Id.* The court noted that defendant's motivation for proceeding *pro se* did not involve the maximum sentence, but rather stemmed from his desire for a speedy trial. *Id.* Finally, it held that the defendant was not prejudiced by the incorrect admonishments regarding the sentence range because he did not allege that he would not have represented himself had he known the maximum sentence was 75 years, and he ultimately received a sentence of 50 years. *Id.* ¶ 56. Our supreme court concluded that despite the trial court's incorrect statement of the maximum potential sentence, it substantially complied with Rule 401(a). *Id.* ¶ 57.

¶ 42 Based on *Wright*, we find defendant's choice to waive counsel was made freely, knowingly, and intelligently. As in *Wright*, defendant was provided the charging documents and correctly advised of the charges, specifically that he was charged with "leaving the scene of a motor vehicle accident involving personal injuries, Count 1, and leaving the scene of a motor vehicle accident Count 2." He expressed his desire to represent himself at the beginning of the case and explained "in 1989 I had probably about nine or ten cases and I represented myself and I got twenty years in the penitentiary in '87 I think. In '89 it was reversed also so I'm not having any problem as far as my expertise in front of you." He further informed the court that he attended "a little junior college." The court told defendant that if he were to represent himself, he would have to represent himself in the same manner as attorneys do before the court. Then the court asked defendant, "[d]o you wish to undertake your own defense, you with no license, no

law license and no training in a law school, do you wish to undertake your own representation presenting your own defense?" Defendant stated he understood and would like to represent himself. Following *Wright*, we therefore find defendant's waiver was knowing and voluntary.

¶ 43 Further, viewing the record, there is nothing to suggest defendant's waiver was not knowing and voluntary and that he would not have chosen to represent himself had he been accurately admonished he was facing a Class X sentence, rather than a Class 2. See *People v. Maxey*, 2018 IL App (1st) 130698, ¶ 59-B (noting that there was nothing in the record to suggest the defendant would not have represented himself if he was correctly admonished he was facing a Class X sentence of 6 to 30 years, rather than the admonition of 4 to 15 years given). Indeed, from the start of the case, defendant asserted his intention to represent himself, noting there was a "conflict" between him and the assistant public defender and he had to go *pro se*. He further stated "I don't agree to anything to break my speedy trial" and repeated his demand for a speedy trial throughout the proceedings, evincing his desire to waive counsel was predicated on his presumed conflicts with appointed counsel and his desire for a speedy trial and, as in *Wright*, did not involve considerations regarding the maximum sentence. See *Wright*, 2017 IL 119561, ¶ 55.

¶ 44 Of course, "[w]e do not diminish the importance of correct admonishments as to the actual maximum sentence allowed." *Id.* ¶ 54. But, here, defendant suffered no prejudice from the incorrect recitation of the maximum sentence. The trial court explicitly declined to impose a Class X sentence when the State did not present certified copies of defendant's prior convictions that would make him eligible for Class X sentencing. Defendant was informed as to the correct sentencing range for the Class 2 offense of failing to report leaving the scene of a motor vehicle accident resulting in personal injury, was sentenced as a Class 2 offender, and was not sentenced

as a Class X offender. See *id.* ¶ 56 (noting, with respect to whether the defendant was prejudiced, that "while defendant was eligible for a 75-year sentence, the State actually asked for the imposition of a 60-year sentence and the trial court imposed a 50-year sentence").

¶ 45 CONCLUSION

¶ 46 The trial court substantially complied with Rule 401(a) when admonishing defendant. Defendant's waiver was knowing and voluntary, and he was not prejudiced, despite any misstatement of the maximum sentence applicable to him. As there is no error, there can be no plain error. *Maxey*, 2018 IL App (1st) 130698, ¶ 82-B.

¶ 47 For the reasons set forth above, we affirm the judgment of the circuit court of Cook County.

¶ 48 Affirmed.