

[Cite as *State v. Martin*, 2009-Ohio-3030.]

**IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CLARK COUNTY**

STATE OF OHIO	:	
	:	Appellate Case No. 08-CA-18
Plaintiff-Appellee	:	
	:	Trial Court Case No. 07-CR-1047
v.	:	
	:	
CARLOS MARTIN	:	(Criminal Appeal from
	:	Common Pleas Court)
Defendant-Appellant	:	
	:	

.....

OPINION

Rendered on the 19th day of June, 2009.

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Attorney for Plaintiff-Appellee

CARLOS MARTIN, #A569-756, Chillicothe Correctional Institution, P.O. Box 5500, Chillicothe, Ohio 45601
Attorney for Defendant-Appellant

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BROGAN, J.

{¶ 1} Carlos Martin appeals from his conviction of aggravated robbery pursuant to his guilty plea. Martin received an agreed sentence of six years. Martin's appellate counsel could find no arguable merit but the possibility that Martin's plea was not entered in compliance with Crim.R. 11.

{¶ 2} We have reviewed Martin's guilty plea made just prior to the beginning of his scheduled trial. We are satisfied the trial court complied with Crim.R. 11 in the plea procedure. The trial court found that Martin knowingly, voluntarily, and intelligently waived his constitutional rights and entered his plea voluntarily. (Tr. Plea at 9.) Martin told the court he was satisfied with the representation he received from his counsel and he agreed to the sentence imposed.

{¶ 3} We have reviewed the entire record and we agree that Martin's appeal is wholly frivolous. Martin's conviction stems from his robbery of Angela Horay at gun point on October 20, 2008, outside the Nite Owl Bar. Horay was seated in Robert Harvel's truck with Harvel and her boyfriend, Jeremy Harvel, when Martin approached them and asked for a ride. When Jeremy Harvel stated he could not give Martin a ride, the defendant pulled a gun and demanded money from all three of them. After the three complied with Martin's request, Martin got in a car and left. Angela flagged down a police officer immediately and told the police the suspect just left in a vehicle she described for them. Police stopped the vehicle with Martin inside, and Angela identified Martin as the robber. Martin matched the description Angela had given the police.

{¶ 4} Martin moved to suppress Horay's identification as unnecessarily suggestive. A showup is properly used by police to quickly confirm that they have apprehended the perpetrator. Quick confirmation is a significant law enforcement interest if the showup takes place close in time to the crime and public safety would be threatened if the perpetrator stayed at large, or delaying the identification could result in the destruction of the evidence, such as the instrumentalities or fruits of the crime. We agree that the showup in this case was not "unnecessarily" suggestive.

{¶ 5} Martin's guilty plea waived his right to raise objections to the suppression ruling in our court. Because Martin received significant plea concessions for his guilty plea, and the trial court appropriately denied the suppression motion, there is no arguable merit that his counsel was constitutionally ineffective. We are satisfied Martin's appeal is wholly frivolous. The judgment of the trial court is Affirmed.

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DONOVAN, P.J., and FROELICH, J., concur.

Copies mailed to:

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Hon. Douglas M. Rastatter