UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2725

September Term, 2014

IN RE: C. A.

Krauser, C.J.,
Berger,
Reed,

JJ.

Opinion by Krauser, C.J.

Filed: March 11, 2016

In the Circuit Court for Prince George's County, sitting as the juvenile court, C. A., appellant, entered a plea of involved to the charge of second-degree assault.[1] The trial court accepted the plea and placed appellant on probation, whereupon appellant filed an appeal, presenting one question for our review. In his words, it is: "Does the record, taken as a whole, fail to establish that appellant's plea of 'involved' was knowing, intelligent and voluntary?" For the reasons that follow, we shall affirm.

BACKGROUND

Appellant was charged in a juvenile petition with the delinquent acts of participation in a criminal gang, robbery, stalking, harassment, and disturbing school operations. At an adjudicatory hearing on January 8, 2015, after the State amended Count 2 of the petition to assault in the second degree, appellant withdrew a previously entered plea of not involved, and entered a plea of involved to second-degree assault. The State then dismissed the remaining counts.

During the adjudicatory hearing, appellant submitted to the court a form entitled "Admission (Plea) under Rule 11-107," which bore his signature and initials, as well as the signatures of his mother and attorney. The form, among other things, advised of all the rights he would be waiving by pleading "involved (guilty)," and indicated: that he was doing so after discussing this plea with his "parents and/or attorney"; that he was satisfied with his lawyer, who answered all of his questions; that he understood "the worst the court

[1] A "delinquent act" is defined as "an act which would be a crime if committed by an adult." Md. Code (2013 Repl. Vol.), Courts and Judicial Proceedings Article, § 3-8A-01(l).

can do to [him]" included sending him to a State juvenile facility, after looking at his record and his circumstances; that he was not presently under the influence of drugs or alcohol; and that no one had forced or threatened him to plead "involved (guilty)."

Then, before accepting appellant's plea of involved, the court engaged in a colloquy with appellant, in which the court confirmed that appellant had discussed the case and the admission form with his lawyer, that he had signed the admission form, that he was not under the influence of drugs or alcohol, and that he wanted to admit his involvement in the delinquent act of second-degree assault.

Following the colloquy and the court's review of the admission form[2], the court announced on the record its finding that appellant "freely, knowingly and voluntarily and understandingly waived his rights and entered a plea of involved as to [second-degree assault.]" Then, after considering the factual predicate contained in the juvenile petition, the court found appellant involved in the delinquent act of second-degree assault. At the disposition hearing that followed, the court placed appellant on supervised probation for an indefinite period of time and ordered him to complete 100 hours of community service.

DISCUSSION

At the outset, we note that juvenile proceedings are "civil in nature" and are distinct from criminal proceedings involving adults, "even though the conduct underlying a delinquent act and a crime may be the same." *Lopez-Sanchez v, State*, 155 Md. App. 580, 598 (2004), *aff'd*, 388 Md. 214 (2005), *cert. denied*, 546 U.S. 1102 (2006). Juvenile

[2] The judge initialed the form, adjacent to the list of the rights being waived.

proceedings, moreover, are conducted under a separate system of law pursuant to provisions set forth in the Juvenile Causes Act, Md. Code, Courts and Judicial Proceedings Article (2013 Repl. Vol), §§ 3-8A-01 *et. seq.*[3] The purpose is to "afford supervision and treatment" to a delinquent child.

But, "[w]hile juvenile proceedings are characterized as civil in nature, the appellate courts nevertheless recognize that delinquency cases are prosecutions by the State *in lieu* of criminal proceedings . . . and that the accused in the juvenile justice system has many of the rights he would be entitled to if he were being prosecuted in the adult criminal justice system." *Lopez-Sanchez*, 155 Md. App. at 599 (citations omitted).

Maryland Rule 11-107(b) governs admissions in juvenile delinquency proceedings and provides, in pertinent part:

> If a respondent child has filed a pleading admitting the allegations of the juvenile petition . . . the court, before proceeding with an adjudicatory hearing, **shall advise the child of the nature and possible consequence of his action or intended action**. The court shall neither encourage [nor] discourage the child with respect to his action or intended action, but **shall ascertain to its satisfaction that the child understands the nature and possible consequences of failing to deny the allegations of the juvenile petition, and that he takes that action knowingly and voluntarily.** These

[3]As the Court of Appeals has observed:

> The *raison d'etre* of the Juvenile Causes Act is that a child does not commit a crime when he commits a delinquent act and therefore is not a criminal. He is not to be punished but afforded supervision and treatment to be made aware of what is right and what is wrong so as to be amenable to the criminal laws.

In re: William A., 313 Md. 690, 695 (1988) (citation and internal quotation marks omitted).

> proceedings shall take place in open court and shall be on the record. If the respondent is an adult, the provisions of Title 4 shall apply.

(Emphasis added.)

Appellant contends that the court, in accepting his plea of involved, did not comply with Rule 11-107, which requires that the court ascertain that the admission was made knowingly and voluntarily and with understanding of the consequences. He claims that the verbal colloquy that preceded the acceptance of the plea, standing alone, was inadequate because 1) there was virtually no inquiry into whether the plea was voluntary; 2) there was no mention of many of the basic trial rights; and 3) there was no indication of the maximum sanction that could be imposed. Although appellant conceded that the written admission form he and his mother and his attorney executed covered these topics, he asserts that it was insufficient to satisfy the requirements of Rule 11-107, because they are, in his words, "best accomplished by [the court] engaging the child in a face-to-face dialog." We disagree and conclude that the court did not err in accepting appellant's admission of involvement.

Rule 11-107 does not require that the court must conduct a "face-to-face exchange." Although the wording of the Rule is that "the court shall advise" of the nature and consequence of admitting the allegations, we do not read the rule to mean that the court, itself, must give those advisements. As the Court of Appeals has stated, "[t]he word 'shall' does not always constitute a mandatory term, but may be directory only[.]" *In re Adoption of Jayden G.*, 433 Md. 50, 79 (2013) (citing *In re*: *Abiagail C.*, 138 Md. App. 570, 581 (2001)). Indeed, "[i]n the context of 'a constitutional provision or enactment appearing to

impose a duty on the court,' the word 'shall,'" declared the Court, "is more often 'viewed as directory in meaning,' not mandatory." *Id.* The same rule of construction applies to interpretation of procedural rules, such as Rule 11-107. *See In re Victor B.*, 336 Md. 85, 94 (1994) (stating that "the canons and principles we follow in construing statutes apply equally to an interpretation of our rules."). Accordingly, it is sufficient that the court ensured that appellant had been properly advised by defense counsel of the nature and consequences of his admission.

The juvenile court, before accepting appellant's admission, confirmed that he had read and was familiar with the comprehensive admission form that he, his parents, and his attorney executed. The admission form set forth the due process rights he was waiving, including: the right to a trial, the burden on the State to prove the charges against him beyond a reasonable doubt, the right to cross-examine the State's witnesses and present evidence, the option to either testify or exercise his privilege against self-incrimination, the right to request that the court suppress any illegally obtained evidence, as well as the potential consequences of the admission, that is, placement in a juvenile institution until age 21. The form further addressed the voluntary nature of the admission, indicating that appellant was exercising his "own free will" in executing it and was not induced by promise, threat, or force to do so. Indeed, appellant notably makes no argument that the content of the admission form did not fully advise him of the nature and consequence of his plea.

Then, after reviewing the admission form, the court examined appellant on the record to ascertain that he had discussed the form with his lawyer, that appellant's lawyer

had answered all of his questions about his legal rights and representation, that it was appellant's wish to admit his involvement in the delinquent act of second-degree assault, that appellant was not under the influence of drugs or alcohol, and that he had signed the form. In addition, appellant's parent and attorney had signed the form, certifying that they had read the form with appellant, and that they were both satisfied that he understood the nature of the plea and the rights that he was giving up. These proceedings took place in open court and were on the record, and the admission form was made a part of the record.

While the better practice might be for the court to verbally inquire of the juvenile as to his or her understanding of the nature and consequences of the admission, we conclude, upon an examination of the record as a whole, that the court did not err in accepting appellant's admission of the allegations as knowing and voluntary.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT