IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-3470
Conference Calendar

JIMMY SPRINKLE,

Petitioner-Appellant,

versus

RICHARD P. IEYOUB,
Attorney General of the
State of Louisiana,

Respondent-Appellee.

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Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. CA 92-4291 "J" 6

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(March 25, 1994)

Before KING, DAVIS, and DeMOSS, Circuit Judges.

PER CURIAM:*

Jimmy Sprinkle argues that one of the predicate convictions used to adjudicate him a multiple offender, a 1974 guilty plea conviction, was involuntary because he was not properly advised of his right against compulsory self-incrimination in connection with the plea.

When a plea of guilty is entered in a state criminal trial, several federal constitutional rights are waived, including the

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* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

privilege against compulsory self-incrimination. See Boykin v. Alabama, 395 U.S. 238, 243, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969). A waiver of these rights cannot be presumed from a silent record. Id. Thus, before accepting a guilty plea, a trial court must ascertain that the defendant "has a full understanding of what the plea connotes and of its consequences." Id. at 244.

Boykin, id., however, does not require that a judge explicitly inform a defendant of the rights which are waived before accepting a guilty plea. Buckley v. Butler, 825 F.2d 895, 899-900 (5th Cir. 1987), cert. denied, 486 U.S. 1009 (1988). Where it appears that the accused was advised generally of his rights, the failure to make express, specific reference to the privilege against self-incrimination does not invalidate a conventional guilty plea. Id. at 900. Moreover, even where the record is silent as to the waiver of rights, a claim of involuntariness may be rebutted by post-conviction testimony that defense counsel had informed the accused of his rights. Id.

The record of the 1974 guilty plea colloquy shows that Sprinkle was generally advised of his rights. Moreover, Sprinkle's claim of involuntariness is rebutted by the post-conviction testimony adduced at the evidentiary hearing held pursuant to Sprinkle's state habeas claim. At that proceeding, the attorney who represented Sprinkle during his 1974 guilty plea testified that, although he did not have an independent recollection of Sprinkle's case,** it was his standard practice

** The evidentiary hearing was held 16 years after the challenged guilty plea was entered.

to explain to the defendants he represented their rights against self-incrimination. Further, when the state court asked Sprinkle whether, had he been advised of the right against self-incrimination, he would have changed his plea, Sprinkle stated, "I don't really know."

Sprinkle argues that the evidence produced at the state evidentiary hearing "did not affirmatively" show that he was advised of his right against self-incrimination. However, the testimony of the evidentiary hearing shows that Sprinkle was generally advised of his rights; therefore, it is not necessary to show that Sprinkle was expressly advised of the right against self-incrimination. See Buckley, 825 F.2d at 899-900.

A petitioner has the burden to demonstrate facts establishing that his guilty plea was not intelligently and voluntarily made because he was not advised of his rights as required by Boykin. Walker v. Maggio, 738 F.2d 714, 717 (5th Cir. 1984), cert. denied, 469 U.S. 1112 (1985). Sprinkle has not met this burden. Accordingly, the judgment of the district court is AFFIRMED.