

IN THE COURT OF APPEALS OF OHIO  
TENTH APPELLATE DISTRICT

State of Ohio,	:	
	:	
Plaintiff-Appellee,	:	
	:	
v.	:	No. 11AP-481
	:	(C.P.C. No. 09CR-03-1731)
Randolph M. Sears, Jr.,	:	
	:	(REGULAR CALENDAR)
Defendant-Appellant.	:	

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D E C I S I O N

Rendered on February 23, 2012

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*Ron O'Brien*, Prosecuting Attorney, and *Laura R. Swisher*, for appellee.

*Gloria L. Smith*, for appellant.

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APPEAL from the Franklin County Court of Common Pleas

TYACK, J.

{¶ 1} Randolph M. Sears, Jr., is pursuing an appeal from the sentence imposed after his community control was revoked. Counsel appointed to represent him, after reviewing the record, has not been able to set forth an assignment of error which is supportable. Therefore, counsel has filed a brief in accord with *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967).

{¶ 2} Consistent with our obligations as an appellate court, we review the record before us to ascertain if a prejudicial error is present.

{¶ 3} Sears was indicted on March 24, 2009 and charged with a felony four, nonsupport of dependents, in violation of R.C. 2919.21. The indictment charged that Sears was obligated to support C.M. and had failed to do so for the period March 4, 2007 to March 4, 2009. The indictment further alleged that Sears previously had been convicted of violating R.C. 2919.21 with respect to C.M.

{¶ 4} Sears was arrested on the new charge of nonsupport on August 24, 2009 and arraigned on August 28, 2009. He entered a plea of "not guilty" and counsel was appointed to represent him.

{¶ 5} Eventually, counsel was able to work out a plea bargain under which Sears entered a guilty plea to a reduced charge of nonsupport as a felony of the fifth degree. Sears entered the plea on April 8, 2010. A pre-sentence investigation was ordered.

{¶ 6} At his sentencing date of May 28, 2010, Sears was granted community control, but warned that if he did not successfully complete community control he would be incarcerated for 12 months, less any time in custody he had already served. The condition of his community control included a requirement that Sears obtain verifiable employment and obey the orders of the domestic relations court with respect to C.M. Sears was also required to submit to random urine screens for controlled substances and otherwise abide by the rules of the probation department.

{¶ 7} Two months later, the trial court judge assigned to Sears' case added conditions that Sears enter and complete drug/alcohol treatment and that he enter and complete the nonsupport employment program.

{¶ 8} Three months later yet, Sears was declared an absconder, meaning he had stopped reporting to his probation officer.

{¶ 9} On January 28, 2011, Sears was arrested. The request for revocation of probation indicated that Sears had tested positive for cocaine twice before he stopped going to see his probation officer altogether. He failed to abide by virtually any of the conditions of probation. He also picked up one or more misdemeanor convictions.

{¶ 10} Sears had difficulty with his prior counsel. He wrote letters to the trial judge, one of which included an acknowledgment that he had "violated several terms and conditions of probation." Still, he wanted community control or probation reinstated.

{¶ 11} The trial court judge revoked Sears' community control and ordered him to serve the 12-month sentence originally promised to him. He was given a total of 117 days of jail time credit.

{¶ 12} The trial judge had every right to revoke Sears' community control and impose the sentence promised him. No error occurred in the trial court.

{¶ 13} The judgment and sentence of the Franklin County Court of Common Pleas are affirmed.

*Judgment affirmed.*

SADLER and DORRIAN, JJ., concur.

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