

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

State of Ohio,	:	
Plaintiff-Appellee,	:	
v.	:	No. 14AP-842
Michael L. Frye,	:	(C.P.C. No. 07CR-3561)
Defendant-Appellant.	:	(REGULAR CALENDAR)

D E C I S I O N

Rendered on May 5, 2015

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

Michael L. Frye, pro se.

APPEAL from the Franklin County Court of Common Pleas
TYACK, J.

{¶ 1} Michael L. Frye is appealing from the trial court's refusal to journalize a new sentencing entry in his case. He assigns a single error for our consideration:

THE TRIAL COURT ABUSED IT'S DISCRETION AND COMMITTED PLAIN ERROR PURSUANT TO CRIM.R. 52(B), WHEN IT FAILED TO ISSUE AN ORDER OF NUNC PRO TUNC WHERE THE SENTENCE IMPOSED AT SENTENCING DID NOT REFLECT THE SENTENCES STATED IN THE SENTENCING JOURNAL ENTRY, DEFENDANT-APPELLANT'S MOTION REQUESTING A NUNC PRO TUNC ORDER SHOULD HAVE BEEN GRANTED.

{¶ 2} Frye was originally indicted on a charge of murder with a firearm specification. In 2008, he entered a guilty plea to the lesser charge of voluntary manslaughter with a firearm specification. The parties jointly recommended a sentence

of 10 years on the manslaughter charge and 3 years based upon the firearm specification. The trial court judge accepted the joint recommendation and sentenced Frye accordingly.

{¶ 3} A sentence of imprisonment is mandatory for a firearm specification. A sentence of imprisonment is also mandatory for a conviction for voluntary manslaughter. *See* R.C. 2929.13.

{¶ 4} At the time his plea was entered, Frye was aware of the joint recommendation for a sentence of 13 years of incarceration. He also had to be aware that the trial court was likely to give the sentence Frye agreed upon.

{¶ 5} The pertinent statutes dictated the length of the sentence to be served for the firearm specification with which Frye was charged – namely three years. The statutes do not specify which exact sentence must be given for a voluntary manslaughter conviction, but Frye cannot now complain about receiving the sentence he agreed to in 2008 and which resulted in his avoiding a potential sentence of 15 years to life for a murder conviction plus 3 years for a firearm specification.

{¶ 6} The trial court did not need to modify the sentencing entry journalized following his plea since the sentencing entry accurately reflected the plea bargain which Frye accepted.

{¶ 7} The sole assignment of error is overruled. The judgment of the Franklin County Court of Common Pleas is affirmed.

Judgment affirmed.

DORRIAN and LUPER SCHUSTER, JJ., concur.
