[Cite as *State v. Wiley*, 2010-Ohio-2263.]

IN THE COURT OF APPEALS FOR CHAMPAIGN COUNTY, OHIO

STATE OF OHIO	:	
Plaintiff-Appellee	:	C.A. CASE NO. 2007 CA 18
v.	:	T.C. NO. 2007 CRB 00482
MATTHEW L. WILEY	:	(Criminal appeal from Municipal Court)
Defendant-Appellant	:	
	:	

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O P I N I O N

Rendered on the 21st day of May, 2010.

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Defendant-Appellant

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FROELICH, J.

{¶ 1} The Appellant was found guilty of the minor misdemeanor charge of dog running at large and the first degree misdemeanor charge of dangerous or vicious dog running at large in violation of the Urbana City Ordinances. Appellant was fined, jail time

was suspended, and the defendant was placed on probation with various conditions including the euthanasia of one of the dogs.

{¶ 2} The Appellant filed a "statement of the evidence" pursuant to App.R. 9 and the Appellee filed a response. The trial court adopted the prosecutor's response and that, therefore, is the record on appeal.

{¶ 3} Counsel has filed a brief pursuant to *Anders v. California* (1967), 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 483, advising the court that she believes the appeal is without merit and furnishing the court with a brief elaborating her reasoning. The appellant was advised that he was given time in which to file a pro se brief assigning any errors for review by this court and that, absent such a brief, the appeal will be submitted for decision on the merits. No such brief has been filed. The case is now before us for our independent review of the record. *Penson v. Ohio* (1988), 488 U.S. 75, 109 S.Ct.346, 102 L.Ed.2d 300.

{¶ 4} In the first "*Anders* Argument," the Appellant states that it is prejudicial error "for a court to deny a continuance on the day of trial for the purposes to bring evidence that would not be exculpatory of the underlying offense charge, but merely of which two dogs the person owned that participated in the offense."

{¶ 5} The stipulated record reflects that Appellant "renewed" his request for a continuance to bring proof that one of the dogs seized by the warden was not the one alleged to have been running loose. The Appellant stated he was not trying to get out of the fines or trouble, but that the blame should not be put on a specific dog subjecting it to euthanasia when that was not the dog that had been running at large.

{¶ 6} The grant or denial of a continuance is a matter entrusted to the broad, sound

discretion of the trial judge which will not be reversed absent an abuse of discretion. *State v. Unger* (1981), 67 Ohio St.2d 65. An abuse of discretion requires a finding that the decision was unreasonable, arbitrary and unconscionable. *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217. There is no evidence in the record that a continuance was requested prior to trial; if it were, its denial and the denial of the "renewed" motion did not constitute an abuse of discretion.

{¶ 7} Appellant's second argument is that the court erred in sentencing the defendant. The sentences were not contrary to law; they were within the limits set by the city's ordinances and the conditions of probation were related to the offenses. Further, the sentences do not evidence an abuse of discretion. See, e.g., *State v. Kalish*, 120 Ohio St.3d 23, 2008-Ohio-4912.

{¶ 8} On the state of the record before us, which is admittedly minimal, we cannot say that there was insufficient evidence or that the verdict was against the weight of the evidence.

{¶ 9} Accordingly, we find that the appeal is without merit and the judgment of the trial court will be affirmed.

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DONOVAN, P.J. and FAIN, J., concur.

Copies mailed to:

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