

[Cite as *State v. Jordan*, 2015-Ohio-5253.]

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
SCIOTO COUNTY

STATE OF OHIO, :
 :
Plaintiff-Appellee, : Case No. 13CA3590
 :
vs. :
 :
CURTIS A. JORDAN, : DECISION AND JUDGMENT ENTRY
 :
Defendant-Appellant. :

APPEARANCES:

Timothy Young, Ohio Public Defender, and Stephen A. Goldmeier, Assistant State Public Defender, Columbus, Ohio¹ for appellant.

Mark Kuhn, Scioto County Prosecuting Attorney, and Jay S. Willis, Scioto County Assistant Prosecuting Attorney, Portsmouth, Ohio for appellee.

CRIMINAL APPEAL FROM COMMON PLEAS COURT
DATE JOURNALIZED: 12-3-15
ABELE, J.

{¶ 1} This is an appeal from a Scioto County Common Pleas Court judgment of conviction and sentence. Curtis A. Jordan, defendant below and appellant herein, pled guilty to burglary, in violation of R.C. 2911.12(A)(2)/(C). Appellant assigns the following error for review:

“THE TRIAL COURT ERRED WHEN IT SENTENCED CURTIS A. JORDAN TO SIX YEARS OF INCARCERATION AS A REPEAT VIOLENT OFFENDER WITHOUT FIRST MAKING THE FINDINGS REQUIRED BY R.C. 2929.14(B)(2)(a).”

¹ Several different counsel represented appellant during the trial court proceedings.

{¶ 2} On August 15, 2013, the Scioto County Grand Jury returned an indictment that charged appellant with burglary. Appellant initially pled not guilty, but later changed his plea to guilty. The trial court accepted his plea and, on November 8, 2013, sentenced appellant to serve an eight year term of incarceration on the burglary charge, as well as an additional six years on a “repeat violent offender specification.” The court ordered the two terms to be served consecutively for an aggregate sentence of fourteen years. This appeal followed.

{¶ 3} Appellant argues that the trial court erred by not making all of the statutory findings necessary to impose a six year sentence as a repeat violent offender. R.C. 2929.14(B)(2)(a) states in pertinent part:

“If division (B)(2)(b) of this section does not apply, the court may impose on an offender, in addition to the longest prison term authorized or required for the offense, an additional definite prison term of one, two, three, four, five, six, seven, eight, nine, or ten years if all of the following criteria are met:

- (i) The offender is convicted of or pleads guilty to a specification of the type described in section 2941.149 of the Revised Code that the offender is a repeat violent offender.
- (ii) The offense of which the offender currently is convicted or to which the offender currently pleads guilty is aggravated murder and the court does not impose a sentence of death or life imprisonment without parole, murder, terrorism and the court does not impose a sentence of life imprisonment without parole, any felony of the first degree that is an offense of violence and the court does not impose a sentence of life imprisonment without parole, or any felony of the second degree that is an offense of violence and the trier of fact finds that the offense involved an attempt to cause or a threat to cause serious physical harm to a person or resulted in serious physical harm to a person.
- (iii) The court imposes the longest prison term for the offense that is not life imprisonment without parole.
- (iv) The court finds that the prison terms imposed pursuant to division (B)(2)(a)(iii) of this

section and, if applicable, division (B)(1) or (3) of this section are inadequate to punish the offender and protect the public from future crime, because the applicable factors under section 2929.12 of the Revised Code indicating a greater likelihood of recidivism outweigh the applicable factors under that section indicating a lesser likelihood of recidivism.

(v) The court finds that the prison terms imposed pursuant to division (B)(2)(a)(iii) of this section and, if applicable, division (B)(1) or (3) of this section are demeaning to the seriousness of the offense, because one or more of the factors under section 2929.12 of the Revised Code indicating that the offender's conduct is more serious than conduct normally constituting the offense are present, and they outweigh the applicable factors under that section indicating that the offender's conduct is less serious than conduct normally constituting the offense.”

{¶ 4} On October 31, 2013, appellant filed a “waiver” wherein he pled guilty to “burglary with repeat violent offender specification.” A guilty plea is generally a complete admission of guilt. Crim.R. 11(B)(1). Thus, appellant has admitted to the repeat violent offender specification and any failure of the trial court to make findings is, at most, harmless error. See Crim.R. 52(A). Also, R.C. 2929.14(B)(2)(a)(i) expressly allows the imposition of additional time when a defendant pleads guilty to a repeat violent offender specification.

{¶ 5} Second, the transcript of the October 31, 2013 change of plea hearing reveals that defense counsel stated “[y]our Honor, the Court had noted our prior objection to the – but inasmuch as he has pled to the repeat violent offender specification, I don’t know that we note – that we have any objection any longer to that.” (Emphasis added.) Thus, appellant withdrew any objection he had to the “repeat violent offender” specification included as part of the indictment. Furthermore, he lodged no objection when the trial court sentenced him on that specification.

{¶ 6} Moreover, it is well-settled that an appellant cannot take advantage of an error that he, himself, induced the trial court to make. See *State v. Dickess*, 174 Ohio App.3d 658, 2008-Ohio-39, 884 N.E.2d 92 at ¶35 (4th Dist.); *State v. Hardie*, 4th Dist. Washington No. 14CA24, 2015-Ohio-1611 at ¶11. Although we readily conclude that any failure by the trial

court to make the required statutory findings with regard to this specification constitutes harmless error, we also conclude that appellant's comment to the court at the change of plea hearing invoked the invited error doctrine.

{¶ 7} Accordingly, for all these reasons, we overrule appellant's assignment of error and affirm the trial court's judgment.

JUDGMENT AFFIRMED

JUDGMENT ENTRY

It is ordered that the judgment be affirmed and that appellee recover of appellant the costs herein taxed.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Scioto County Common Pleas Court to carry this judgment into execution.

If a stay of execution of sentence and release upon bail has been previously granted, it is continued for a period of sixty days upon the bail previously posted. The purpose of said stay is to allow appellant to file with the Ohio Supreme Court an application for a stay during the pendency of the proceedings in that court. The stay as herein continued will terminate at the expiration of the sixty day period.

The stay will also terminate if appellant fails to file a notice of appeal with the Ohio Supreme Court in the forty-five day period pursuant to Rule II, Sec. 2 of the Rules of Practice of the Ohio Supreme Court. Additionally, if the Ohio Supreme Court dismisses the appeal prior to the expiration of said sixty days, the stay will terminate as of the date of such dismissal.

A certified copy of this entry shall constitute that mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

Hoover, P.J. & McFarland, A.J.: Concur in Judgment & Opinion

For the Court

BY: _____
Peter B. Abele, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.