

COURT OF APPEALS  
ASHLAND COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

STATE OF OHIO	:	JUDGES:
	:	Hon. W. Scott Gwin, P.J.
	:	Hon. John W. Wise, J.
Plaintiff-Appellee	:	Hon. John F. Boggins, J.
	:	
-VS-	:	
	:	Case No. 02-COA-025
RANDY SPRING	:	
	:	
Defendant-Appellant	:	
	:	<u>O P I N I O N</u>

CHARACTER OF PROCEEDING:	Criminal appeal from the Ashland County Court of Common Pleas, Case No. 01-CRI-08112
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JUDGMENT:	Affirmed
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DATE OF JUDGMENT ENTRY:	1/27/2003
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APPEARANCES:

For Plaintiff-Appellee

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*Boggins, J..*

{¶1} Defendant Randy Spring appeals the judgment of the Court of Common Pleas of Ashland County, Ohio, which convicted and sentenced him for one count of burglary, after appellant pled guilty. Appellant was originally charged with burglary in violation of R.C. §2911.12(A)(1), a felony of the second degree. The matter was reduced to burglary in violation of R.C. §2911.12(A)(3), a felony of the third degree. The trial court sentenced appellant to five years in prison, which is the maximum for a third degree felony. Appellant assigns a single error to the trial court:

ASSIGNMENT OF ERROR

{¶2} “THE TRIAL COURT ERRED IN SENTENCING DEFENDANT/APPELLANT SPRING TO THE MAXIMUM SENTENCE OF FIVE YEARS IMPRISONMENT.”

{¶3} At the sentencing hearing on the change of plea held January 7, 2002, the trial court informed appellant that for a third degree felony, the sentencing options were one, two, three, four, or five years in prison. (T. at 9). The court received and reviewed a pre-sentence investigation report. (T. at 2).

{¶4} The trial court analyzed its sentencing decision pursuant to R.C. 2929.14, by examining the factors regarding the seriousness of the offense and the likelihood of recidivism. The court noted appellant had a significant history of adult criminal convictions. (T. at 9). The court found appellant had failed to respond favorably in the past to sanctions and probation. *Id.* Appellant had been released from a CBCF approximately only one month prior to committing the instant offense. *Id.* Appellant was on felony probation for separate cases out of Morrow County. *Id.* The court found there were no

factors which would permit it to conclude this was a less serious version of the offense, or that recidivism was unlikely. Id. The Court found that the victims suffered serious psychological harm resulting from having their home broken into. (T. at 9-10).

{¶5} The court found pursuant to R.C. §2929.14(B) that the shortest prison term could demean the seriousness of the offense and would not adequately protect the public from future harm by Appellant. (T. at 10).

{¶6} The trial court further found, pursuant to R.C. §2929.14(C), that Appellant posed the greatest likelihood of committing future crimes based upon his record and the nature of the offense. Id.

{¶7} The trial court then sentenced appellant to the maximum term under the statute. Id.

{¶8} Under the Revised Code, our standard of review is whether we can clearly and convincingly find the record supports the sentence, see R.C. §2953.08.

{¶9} We have reviewed the record, and we find the trial court clearly and correctly articulated Ohio law with regard to sentencing, and the record clearly and convincingly justifies the sentence.

{¶10} The assignment of error is overruled.

{¶11} For the foregoing reasons, the judgment of the Court of Common Pleas of Ashland County, Ohio, is affirmed.

By Boggins, J.,

Gwin, P. J., and

Wise, J., concur

Topic: Maximum Sentence