

COURT OF APPEALS
ASHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-VS-

APRIL L. CARR

Defendant-Appellant

JUDGES:

: Hon: W. Scott Gwin, P.J.
: Hon: Sheila G. Farmer, J.
: Hon: John F. Boggins, J.
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: Case No. 04-COA-009
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: O P I N I O N

CHARACTER OF PROCEEDING:

Civil appeal from the Ashland County Court
of Common Pleas, Case No. 03-CRI-087

JUDGMENT:

Reversed and Remanded

DATE OF JUDGMENT ENTRY:

September 2, 2004

APPEARANCES:

For Plaintiff-Appellee

ROBERT P. DESANTO
ASHLAND COUNTY PROSECUTOR
Suite 307, Orange Tree Square
Ashland, OH 44805
Gwin, P.J.

For Defendant-Appellant

DOUGLAS A. MILHOAN
610 Market Avenue North
Canton, OH 44702

{¶1} On April 26, 2003, the Ashland County Grand Jury indicted appellant April L. Carr, aka, Ronda Elliott, on three counts of forgery, felonies of the fifth degree in violation of R.C. 2913.31 (A)(3). On December 19, 2003, appellant pled guilty to two counts of forgery. Count three was dismissed. The court deferred sentencing and ordered a pre-sentence investigation report. The court conducted the sentencing hearing on January 21, 2004. By judgment entry filed January 22, 2004, the court sentenced appellant to eight months on each count to be served concurrently, but consecutively to an eleven month sentence the appellant was serving out of Shelby County. Appellant filed an appeal and this matter is now before this court for consideration. Appellant's sole assignment of error is as follows;

{¶2} "I. THE IMPOSITION OF CONSECUTIVE SENTENCES IS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE AND CONTRARY TO LAW."

I.

{¶3} Appellant challenges the trial court's consecutive sentence as being against the manifest weight of the evidence and contrary to law.

{¶4} In its brief at 6, appellee concedes the sentences do not meet the following mandates of State v. Comer, 99 Ohio St.3d 463, 2003-Ohio-4165, syllabus:

{¶5} "1. Pursuant to R.C. 2929.14(E) (4) and 2929.19(B) (2) (c), when imposing consecutive sentences, a trial court is required to make its statutorily enumerated findings and give reasons supporting those findings at the sentencing hearing. "

{¶6} The matter is reversed and remanded to the trial court for re-sentencing pursuant to Comer, supra.

Assignment of Error I is granted.

The judgment of the Court of Common Pleas of Ashland County, Ohio is hereby reversed and remanded.

By Gwin, P.J.,
Farmer, J., and
Boggins, J., concur

JUDGES

IN THE COURT OF APPEALS FOR ASHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO

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:

Plaintiff-Appellee	:	
	:	
	:	
-vs-	:	JUDGMENT ENTRY
	:	
APRIL L. CARR	:	
	:	
	:	
Defendant-Appellant	:	CASE NO. 04-COA-009

For the reasons stated in our accompanying Memorandum-Opinion, the judgment of the Court of Common Pleas of Ashland County, Ohio is hereby reversed and remanded. Costs to appellee.

JUDGES