

COURT OF APPEALS
LICKING COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-VS-

BRIAN E. HOLLAND

Defendant-Appellant

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JUDGES:

Hon. William B. Hoffman, P.J.

Hon. Sheila G. Farmer, J.

Hon. Patricia A. Delaney, J.

Case No. 11-CA-47

OPINION

CHARACTER OF PROCEEDING:

Appeal from the Court of Common
Pleas, Case No. 10-CR-628

JUDGMENT:

Reversed and Remanded

DATE OF JUDGMENT:

November 18, 2011

APPEARANCES:

For Plaintiff-Appellee

BRIAN WALTZ
20 South Second Street
4th Floor
Newark, OH 43055

For Defendant-Appellant

WILLIAM T. CRAMER
470 Olde Worthington Road
Suite 200
Westerville, OH 43082

Farmer, J.

{¶1} On November 12, 2010, the Licking County Grand Jury indicted appellant, Brian Holland, on one count of illegally manufacturing drugs in violation of R.C. 2925.04 and one count of illegally assembling or possessing chemicals for the manufacture of drugs in violation of R.C. 2925.041. A jury trial commenced on March 22, 2011. The jury found appellant guilty. By judgment entry filed March 23, 2011, the trial court sentenced appellant to seven years in prison, and included a provision that appellant was not to be considered or released on transitional control.

{¶2} Appellant filed an appeal and this matter is now before this court for consideration. Assignment of error is as follows:

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{¶3} "THE TRIAL COURT ERRED BY INCLUDING IN THE SENTENCING ENTRY A PROVISION THAT APPELLANT IS NOT TO BE CONSIDERED OR RELEASED ON TRANSITIONAL CONTROL."

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{¶4} Appellant claims the trial court erred by including in the sentencing entry a provision that he is not to be considered or released on transitional control. We agree.

{¶5} Based upon this court's well reasoned opinion in *State v. Spears*, Licking App. No. 10-CA-95, 2011-Ohio-1538, ¶¶34-38, this assignment of error is granted.

{¶6} The judgment of the Court of Common Pleas of Licking County, Ohio is hereby reversed, and the matter is remanded to said court for resentencing without the transitional control language.

By Farmer, J.

Hoffman, P.J. and

Delaney, J. concur.

s/ Sheila G. Farmer

s/ William B. Hoffman

s/ Patricia A. Delaney

JUDGES

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

STATE OF OHIO

Plaintiff-Appellee

-vs-

BRIAN E. HOLLAND

Defendant-Appellant

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JUDGMENT ENTRY

CASE NO. 11-CA-47

For the reasons stated in our accompanying Memorandum-Opinion, the judgment of the Court of Common Pleas of Licking County, Ohio is reversed, and the matter is remanded to said court for resentencing without the transitional control language. Costs to appellee.

s/ Sheila G. Farmer

s/ William B. Hoffman

s/ Patricia A. Delaney

JUDGES