

[Cite as *State v. Baxter*, 2002-Ohio-2357.]

IN THE COURT OF APPEALS OF ERIE COUNTY

State of Ohio

Court of Appeals No. E-01-031

Appellee

Trial Court No. CRB-9900244A

V.

Shawn Baxter

DECISION AND JUDGMENT ENTRY

Appellant

Decided: May 17, 2002

* * * * *

Randal Strickler, Prosecuting Attorney
Village of Kellys Island, for appellee.

Dennis P. Levin, for appellant.

* * * * *

KNEPPER, J.

{¶1} This is an appeal from a judgment of the Erie County Court that found appellant guilty of violating the terms and conditions of his probation. Pursuant to 6th Dist.Loc.App.R. 12(C), this case is sua sponte assigned to the accelerated calendar.

{¶2} On July 26, 1999, appellant was convicted of aggravated menacing in violation of R.C. 2903.21(A) and sentenced to serve 90 days in jail. The trial court suspended the jail time, however, and placed appellant on probation under the condition that he have no contact with the victim for a period of five years. Thereafter, it was alleged that appellant had violated the no contact order on two occasions. The matter was heard by the trial court on July 13, 2001 and testimony was taken. On August 13, 2001, the trial court

found that appellant had violated the terms of his probation and ordered him to serve ten days of the suspended sentence. Appellant appeals the August 13, 2001 judgment, asserting that the trial court erred by finding that he violated the no contact order.

{¶3} The standard of review ordinarily applied by an appeals court when reviewing a probation violation proceeding is highly deferential to the trial court. See *State v. Hayes* (Aug. 10, 2001), Wood App. No. WD-00-075. This court has thoroughly reviewed the record of proceedings in the trial court, including the transcript of the July 13, 2001 hearing. Upon consideration thereof, we find that there was substantial evidence before the trial court that appellant wilfully violated a condition of his probation by having contact with the victim of the original offense of aggravated menacing and that the trial court's finding was not in error. See *State v. Hylton* (1991), 75 Ohio App.3d 778. Accordingly, appellant's sole assignment of error is not well-taken.

{¶4} On consideration whereof, this court finds that appellant was not prejudiced or prevented from having a fair trial, and the judgment of the Erie County Court is affirmed. Costs of this appeal are assessed to appellant.

JUDGMENT AFFIRMED.

Melvin L. Resnick, J.

JUDGE

James R. Sherck, J.

JUDGE

Richard W. Knepper, J.

CONCUR.

JUDGE