

[Cite as *State v. Potts*, 2002-Ohio-4829.]

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
WOOD COUNTY

State of Ohio

Court of Appeals No. WD-02-020

Appellee

Trial Court No. TRD-02-01475

V.

John Potts

DECISION AND JUDGMENT ENTRY

Appellant

Decided: September 13, 2002

* * * * *

P. Martin Aubry, Prosecuting Attorney, for appellee.

Jeffrey M. Gamso, for appellant.

* * * * *

KNEPPER, J.

{¶1} This is an accelerated appeal from the judgment of the Perrysburg Municipal Court which, following a plea of no contest, found appellant, John F. Potts, guilty of speeding in violation of R.C. 4511.21(D)(1), a minor misdemeanor. The court imposed a fine of \$75 and sentenced appellant to complete a remedial driving course. Appellant appeals the judgment of the trial court and raises the following sole assignment of error:

{¶2} "It constituted error to order that a remedial driving course be completed by a date certain as part of the sentence imposed for a minor misdemeanor."

{¶3} A court has no power to substitute a different sentence

than that provided for by statute. *Colgrove v. Burns* (1964), 175 Ohio St. 437, 438. "The court may only pronounce the judgment provided by law." *State v. Bilder* (1987), 39 Ohio App.3d 135, citing *Dillon v. State* (1883), 38 Ohio St. 586, syllabus. See, also, *State v. Burnett* (2001), 93 Ohio St.3d 419, 431.

{¶4} According to R.C. 2929.21(D), the only punishment for a minor misdemeanor is a fine of "not more than one hundred dollars."

The trial court therefore exceeded its authority in sentencing appellant to complete a remedial driving course. Appellant's sole assignment of error is therefore found well-taken.

{¶5} On consideration whereof, this court finds that substantial justice has not been done the party complaining with respect to the sentence imposed. Accordingly, the judgment of the Perrysburg Municipal Court is reversed and vacated as to the requirement that appellant complete a remedial driving course. Costs of this appeal to be paid by the state of Ohio.

JUDGMENT REVERSED.

Peter M. Handwork, J.

JUDGE

Melvin L. Resnick, J.

JUDGE

Richard W. Knepper, J.
CONCUR.

JUDGE