

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

State of Ohio

Court of Appeals No. WD-11-027

Appellee

Trial Court No. 10 CR 330

v.

Almurray Woods

DECISION AND JUDGMENT

Appellant

Decided: October 26, 2012

* * * * *

Paul A. Dobson, Wood County Prosecuting Attorney, Gwen
Howe-Gebers, Chief Assistant Prosecuting Attorney, and David E.
Romaker, Jr., Assistant Prosecuting Attorney, for appellee.

Merle R. Dech, Jr., for appellant.

* * * * *

HANDWORK, J.

{¶ 1} This appeal is from the March 24, 2011 judgment of the Wood County Court of Common Pleas, which sentenced appellant, Almurray Woods, after the court accepted his guilty plea to charges of engaging in a pattern of corrupt activity, with a specification, in violation of R.C. 2923.329(A)(1), a felony of the first degree. Appellant was

sentenced to a five-year prison term. Upon consideration of the assignments of error, we affirm the decision of the lower court. Appellant asserts the following single assignment of error on appeal:

The trial court abused its discretion in sentencing the defendant to a five (5) year [sic] prison sentence.

{¶ 2} Appellant was indicted on one count of complicity to commit trafficking in heroin, in an amount greater than 100 unit doses but less than 500 unit doses, and one count of engaging in a pattern of corrupt activity (trafficking in drugs, possession of drugs, involuntary manslaughter, and theft of firearms), with a specification that at least one of these incidents of corrupt activity is a felony of the first, second, or third degree (R.C. 2923.32(A)(1)). The indictment set forth 32 separate incidents of these corrupt activities. Appellant pled guilty to the second count and the prosecution dismissed the first count. The court then sentenced appellant to a five-year prison term. On appeal, appellant argues that the trial court abused its discretion by sentencing appellant to more than the minimum sentence allowed under the law.

{¶ 3} When reviewing a felony sentence, the appellate court must first examine the trial court's sentence to determine if it is clearly and convincingly contrary to law pursuant to R.C. 2953.08(G). If the appellate court finds that the trial court complied with all applicable rules and statutes, it then determines whether the trial court abused its discretion by imposing the sentence. *State v. Kalish*, 120 Ohio St.3d 23, 2008-Ohio-4912, 896 N.E.2d 124, ¶ 14-17. The abuse of discretion standard requires that we find

the trial court's sentence was unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219, 450 N.E.2d 1140 (1983).

{¶ 4} Appellant argues that the trial court failed to properly balance the factors set forth in R.C. 2929.12(A). Appellant argues the court did not give enough weight to the facts that: he was minimally involved in the criminal organization, had never been adjudicated a delinquent child, had never been convicted of a crime as an adult, was unlikely to commit another offense since he was only involved in this crime because he had been misled as to what product was actually being sold, and he was genuinely remorseful.

{¶ 5} Upon a review of the sentencing hearing, we find the trial court did give consideration to the principles and purposes of sentencing (R.C. 2929.11) and the recidivism and seriousness factors (R.C. 2929.12). The court acknowledged that the statute presumed that a prison sentence was necessary to carry out the purposes and principles of felony sentencing. The court did not find that any of the facts of this case warranted deterring from that presumption. The court imposed a sentence of five years of imprisonment, which was within the statutory range of three-to-ten years and below the maximum sentence permissible. We find the trial court did not violate any statutory duty and also that appellant has failed to show the court abused its discretion by imposing more than the minimum sentence. Appellant's sole assignment of error is not well-taken.

{¶ 6} Having found that the trial court did not commit error prejudicial to appellant, the judgment of the Wood County Court of Common Pleas is affirmed. Appellant is ordered to pay the court costs of this appeal pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Peter M. Handwork, J.

Arlene Singer, P.J.

Thomas J. Osowik, J.
CONCUR.

JUDGE

JUDGE

JUDGE

<p>This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at: http://www.sconet.state.oh.us/rod/newpdf/?source=6.</p>
