

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

State of Ohio

Court of Appeals No. E-11-037

Appellee

Trial Court No. 2011-CR-024

v.

Yancy E. Crawford

**DECISION AND JUDGMENT**

Appellant

Decided: February 10, 2012

\* \* \* \* \*

Kevin J. Baxter, Erie County Prosecuting Attorney, and  
Mary Anne Barylski, Assistant Prosecuting Attorney, for appellee.

Jeffrey J. Whitacre, for appellant.

\* \* \* \* \*

**OSOWIK, J.**

{¶ 1} This is an appeal from a judgment of the Erie County Court of Common Pleas which found appellant guilty of one count of trafficking in cocaine, in violation of R.C. 2929.19(A)(1) and (C)(4)(b), and assessed the disputed fine and court costs. For the reasons set forth below, this court affirms the judgment of the trial court.

{¶ 2} Appellant, Yancy E. Crawford, sets forth the following sole assignment of error:

The trial court abused its discretion and violated the mandates of Ohio law in assessing fines and court costs without any regard to appellant's inability to pay said fines and costs.

{¶ 3} The following undisputed facts are relevant to the issue raised on appeal. In January 2011, appellant was indicted in case No. 2011-CR-024 for trafficking in cocaine and trafficking in crack cocaine. On April 11, 2011, appellant entered a negotiated plea of guilty to trafficking in cocaine in exchange for dismissal of the balance of the charges. Appellant was sentenced to a thirteen month term of incarceration to run concurrent with the time appellant was serving for an unrelated conviction. The judge also ordered appellant to pay a fine of \$1,000 and court costs.

{¶ 4} As R.C. 2929.19(B)(5), formerly R.C. 2929.19(B)(6), establishes, "Before imposing a financial sanction under section 2929.18 of the Revised Code or a fine under section 2929.32 of the Revised Code, the court shall consider the offender's present and future ability to pay the amount of the sanction or fine."

{¶ 5} Of significance to the instant case, the statute establishes no particular factors for the court to take into consideration, nor is a hearing necessary before making this determination. A trial court may comply with R.C. 2929.19(B)(5) simply by considering a presentence investigation report, which includes information about the

defendant's age, health, education, and work history. *State v. Ratliff*, 2d Dist. No. 04CA2965, 2011-Ohio-2313, ¶ 12.

{¶ 6} In the present case, appellant waived a presentence investigation report. However, the judgment entry dated March 17, 2011, expressly reflects that the court reviewed the financial disclosure form submitted by appellant.

{¶ 7} In addition, the record shows that at the sentencing hearing, defense counsel asked the judge not to impose any fine or court costs noting that appellant was incarcerated, would be incarcerated into the future, and had qualified for the services of the public defender's office. Defense counsel also asked the court to consider license suspension terms that would better enable appellant to obtain employment following his prison term.

{¶ 8} Ohio courts consistently hold that "[a]lthough preferable for appellate review, a trial court need not explicitly state in its judgment entry that it considered a defendant's ability to pay a financial sanction. Rather, courts look to the totality of the record to see if this requirement has been satisfied." *State v. Smith*, 4th Dist. No. 06CA2893, 2007-Ohio-1884, ¶ 42, quoting *State v. Ray*, 4th Dist. No. 04CA2965, 2006-Ohio-853, ¶ 26. *State v. Rizer*, 4th Dist. No. 10CA3, 2011-Ohio-5702, ¶ 49.

{¶ 9} Given the "low threshold" of R.C. 2929.19(B)(5) and in consideration of the totality of the record, this court finds there was consideration of appellant's financial situation and ability to pay prior to the financial sanction. There was no abuse of discretion in the assessment of fines and court costs. Appellant's assignment of error is

not well-taken. The judgment of the Erie County Court of Common Pleas is affirmed.

Appellant is ordered to pay the costs of 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.

Mark L. Pietrykowski, J.

JUDGE

Thomas J. Osowik, J.

JUDGE

Stephen A. Yarbrough, J.  
CONCUR.

JUDGE

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:  
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