

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

State of Ohio

Court of Appeals No. L-12-1120

Appellee

Trial Court No. CR0201201392

v.

Chad Keirns

DECISION AND JUDGMENT

Appellant

Decided: June 28, 2013

* * * * *

Julia R. Bates, Lucas County Prosecuting Attorney, and
Evy M. Jarrett, Assistant Prosecuting Attorney, for appellee.

Tim A. Dugan, for appellant.

* * * * *

PIETRYKOWSKI, J.

{¶ 1} Defendant-appellant, Chad Keirns, appeals the April 3, 2012 judgment of the Lucas County Court of Common Pleas which, following a no contest plea to two counts of rape and one count of gross sexual imposition, sentenced appellant to a total of 25

years of imprisonment. Because we find that the court did not abuse its discretion in sentencing appellant to maximum, consecutive prison terms, we affirm.

{¶ 2} Appellant presents the following assignment of error for our review:

The trial court abused its discretion in sentencing appellant to maximum and consecutive prison terms.

{¶ 3} Appellant was initially indicted on two counts of gross sexual imposition and one count of rape, the charges related to the rape of a child under the age of ten. As the Lucas County Children Services investigation continued, evidence of additional sexual offenses against another minor victim surfaced.

{¶ 4} Thereafter, on March 9, 2012, pursuant to a plea agreement with the state, a nolle prosequi was entered as to the original indictment and an information was filed charging two counts of rape, with different minor victims, and one count of gross sexual imposition. As a condition of the plea agreement, the state agreed that no additional indictments would be filed as to the victims in the information. The court then proceeded with the plea hearing, during which appellant was informed of the maximum prison terms and the maximum fines he faced. The court explained the rights appellant was waiving by entering the plea. The court also informed appellant of the sexual offender classification and mandatory postrelease control.

{¶ 5} The state then presented a recitation of the following facts. Between June 1, 2009, and September 30, 2010, appellant engaged in sexual conduct with minor stepsister, O.D., who was ages seven to nine during that period. Specifically, he inserted

his penis into her vagina. Further, during the same time period, appellant rubbed O.D.'s vaginal area with his hand. The acts were done on different days and on multiple occasions.

{¶ 6} As to the second rape count, on July 31, 2011, appellant inserted his finger into five-year-old S.H.'s vagina. Appellant's semen was found on the victim's shirt and underwear. At the time of the offense, appellant was temporarily residing in the victim's parent's home. Appellant then entered no contest pleas to the charges and was found guilty.

{¶ 7} Appellant's sentencing hearing was held on March 28, 2012. The victim's representatives made statements in addition to submitting letters to the court. Appellant addressed the court and indicated that he was going to "make the best of a bad situation" and that he is "pretty sure" he will deal with being labeled a "so-called sex offender" the rest of his life. Prior to sentencing, a community notification hearing under the sexual offender statute was also held and appellant was found to be subjected to community notification upon his release from prison.

{¶ 8} In sentencing appellant, the court noted appellant's "cavalier" approach during the course of the proceedings and stated that he was a true "predator" who did not deserve to be a part of the community. The court then noted that it was obligated "to impose the level of incarceration that's commensurate with the offenses, the harm to the victim, and attempting to protect society." The court further noted that although it is to

consider the rehabilitation of the defendant, there must first be an acknowledgement of guilt.

{¶ 9} Appellant was then sentenced to the maximum of ten years of imprisonment for each count of rape, and the maximum of five years of imprisonment for gross sexual imposition. Appellant was ordered to serve the sentences consecutively. In sentencing appellant to consecutive sentences, the court found them necessary due to the harm caused to the victims and the lack of remorse shown by appellant. The sentencing judgment entry was journalized on April 3, 2012, and this appeal followed.

{¶ 10} In his sole assignment of error, appellant argues that his maximum, consecutive sentences were unreasonable and an abuse of the court's discretion given the fact that he had no prior felony record and no prior sex offense convictions. Appellant does not contend that the sentence is contrary to law.

{¶ 11} A properly imposed sentence may still be reversed if the sentencing court abused its discretion. *State v. Kalish*, 120 Ohio St.3d 23, 2008-Ohio-4912, 896 N.E.2d 124, ¶ 17. An abuse of discretion occurs where a court's judgment is unreasonable and arbitrary. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219, 450 N.E.2d 1140 (1983).

{¶ 12} The sentencing hearing transcript reveals that in imposing maximum, consecutive sentences, the trial court noted appellant's lack of remorse, demonstrated both in court and in the presentence investigation report, and the fact that the offenses were committed against young children. Reviewing the record in this case, we cannot

find that the trial court abused its discretion in sentencing appellant. Appellant's assignment of error is not well-taken.

{¶ 13} Because appellant was not prejudiced or prevented from having a fair proceeding, the judgment of the Lucas County Court of Common Pleas is affirmed. Pursuant to App.R. 24, appellant is ordered to pay the costs of this appeal.

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

Arlene Singer, P.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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