

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

State of Ohio

Court of Appeals No. H-13-012

Appellee

Trial Court No. CR 2013 00005

v.

M.H.

DECISION AND JUDGMENT

Appellant

Decided: June 13, 2014

* * * * *

Russell Leffler, Huron County Prosecuting Attorney, and
Dina Shenker, Assistant Prosecuting Attorney, for appellee.

Geoffrey Oglesby and Roger Stark, for appellant.

* * * * *

OSOWIK, J.

{¶ 1} This is an appeal from a judgment of the Huron County Court of Common Pleas, Juvenile Division, that imposed sentence upon appellant M.H. after finding him guilty of one count of contributing to the delinquency of a minor. For the following reasons, the judgment of the trial court is affirmed.

{¶ 2} On April 15, 2013, appellant was arraigned on one count of contributing to the delinquency of a minor in violation of R.C. 2919.24. Appellant entered a plea of not guilty and was released on personal recognizance bond. On May 20, 2013, appellant moved to change his plea to no contest. The trial court allowed the plea change, accepted the plea and entered a finding of guilty. The trial court further ordered a presentence investigation and set the matter for sentencing on June 5, 2013. At sentencing, the trial court ordered that appellant serve a term of 180 days in the Huron County Jail, with 90 days suspended on condition that appellant comply with the terms of his community control for two years.

{¶ 3} Appellant sets forth the following sole assignment of error:

The sentencing hearing was conducted in a manner so as to deprive the defendant of his due process rights.

{¶ 4} In support of his assignment of error, appellant appears to claim that the trial court, without justification or explanation, denied appellant and counsel the opportunity to review the presentence investigation report before sentence was imposed. The record reflects that at appellant's sentencing hearing defense counsel stated that "the court has chosen not to share with [us] the *victim's impact statement*." (Emphasis added.) Appellant asserts that, consequently, he was denied the opportunity to determine whether any factual errors existed "in the report."

{¶ 5} As to the presentence investigation report, although there is no evidence of such in the record, appellee asserts that the chief probation officer provided both the state

and defense counsel a copy to review before the hearing. Appellant has not pointed to any evidence in the record that counsel was in any way, or for any reason, prevented from reviewing the report, nor is there any evidence in the transcript of the hearing that counsel requested a copy and was refused. It appears to this court that, in articulating his argument, appellant may have confused the PSI report with the victim's impact statement, or uses the terms interchangeably. As to the victim's impact statement, defense counsel acknowledged at the hearing that the victim's family chose not to share the statement with the defense, as is their right pursuant to R.C. 2947.051(C). In the transcript, defense counsel mentions the victim's impact statement several times but does not refer to the PSI report or complain of not having access to it. As to the PSI, we further note that because appellant did not state on the record that he did not receive a copy of the report, the issue was waived, absent plain error. Upon our review, we find that appellant has not demonstrated plain error here. *See State v. Long*, 53 Ohio St.2d 91, 372 N.E.2d 804 (1978).

{¶ 6} Based on the foregoing, appellant's sole assignment of error is not well-taken.

{¶ 7} On consideration whereof, the judgment of the Huron County Court of Common Pleas, Juvenile Division, is affirmed. Costs of this appeal are assessed to appellant 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

James D. Jensen, 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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