[Cite as *Cleveland v. Harris*, 2002-Ohio-3906.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 80863

CITY OF CLEVELAND,	:	ACCELERATED DOCKET
	:	
Plaintiff-appellee	:	JOURNAL ENTRY
	:	
v.	:	AND
	:	
DONTE HARRIS,	:	OPINION
	:	
Defendant-appellant	:	
	:	

DATE OF ANNOUNCEMENT
OF DECISION: AUGUST 1, 2002

CHARACTER OF PROCEEDING: Criminal appeal from
Cleveland Municipal Court,
Case No. 2001 TRD 088490.

JUDGMENT: AFFIRMED.

DATE OF JOURNALIZATION:

APPEARANCES:

For Plaintiff-Appellee: Cleveland City Prosecutor
Gina M. Villa, Assistant
Christopher R. Fortunato, Assistant
8th Floor Justice Center
1200 Ontario Street
Cleveland, OH 44113

For Defendant-Appellant: Margaret M. Walsh
The Legal Aid Society of Cleveland
1223 West Sixth Street
Cleveland, OH 44113

TIMOTHY E. McMONAGLE, A.J.:

{¶1} This cause came on to be heard upon the accelerated calendar pursuant to App.R. 11.1 and Loc.R. 25, the records from the Cleveland Municipal Court and the briefs of counsel. In this case, defendant-appellant, Donte Harris, appeals the sentence imposed following his conviction for failing to stop after being involved in an accident on a city street.

{¶2} The record reveals that appellant was issued a citation on September 11, 2001[1] for (1) driving without a license, in violation of Cleveland Codified Ordinance ("CCO") 435.01a; (2) failure to stop after an accident, in violation of CCO 435.15; and (3) illegal turn at intersection, in violation of CCO 431.10. Appellant subsequently pleaded no contest to the failure-to-stop offense, a first degree misdemeanor, and the remaining charges were nolled. From what can be gleaned from the record before us, it appears that the accident involved two other individuals, both of whom sustained injuries to themselves or their vehicles.

{¶3} At the sentencing hearing held on January 10, 2002, appellant's attorney indicated that it was her understanding that there would be insurance coverage to cover the costs incurred by the two victims of the automobile accident. The trial court judge thereafter inquired as to whether appellant had anything to say. Appellant apologized for the accident but denied any illegal use of substances upon inquiry. After foregoing an order for restitution

[1]While the traffic citation issued alleges that appellant committed these offenses on this date, the remainder of the record and the briefs of counsel refer to these offenses as being committed on September 12, 2001.

in favor of the victims' pursuit of civil remedies, the trial court sentenced appellant 180 days in jail, of which 150 were suspended, and a $1,000 fine, of which $800 was suspended. Given three days credit for jail time already served, appellant was to serve 27 days in jail and pay $200 as his fine. The trial court further ordered appellant to undergo a formal substance abuse assessment while incarcerated and to return to the court in two weeks time for purposes of review. In the journal entry prepared contemporaneously with this hearing and journalized on February 21, 2002, there is the notation "no good time" following a series of acronyms, several of which are unknown to this court. The transcript of the sentencing hearing, on the other hand, contains no such reference to "good time."

{¶4} Appellant is now before this court and assigns three errors for our review, all which challenge the court's sentencing order regarding the "no good time" reference.

{¶5} I.

{¶6} In his first assignment of error, appellant contends that the trial court erred by imposing "no good time" as part of appellant's sentence when the misdemeanor sentencing guidelines make no such provision.

{¶7} By its very terms, R.C. 2967.193 authorizes an incarcerated person to earn credit towards their prison terms when that person productively participates in any number of authorized programs. This credit, however, is limited to those confined in a state correctional institution, not a county jail. See R.C.

2967.193(A) and 2967.01(A); *Adkins v. McFaul* (1996), 76 Ohio St.3d 350, 351. Since appellant was not confined to a state correctional institution, it was error for the trial court to make any reference to "good time" as is authorized under R.C. 2967.193. Nonetheless, we find this error to have no effect on appellant's substantial rights as it does not alter or otherwise restrict appellant's sentence and, therefore, the error is harmless and must be disregarded by this court under Crim.R. 52(A).

{¶8} Accordingly, appellant's first assignment of error is not well taken and is overruled.

{¶9} II.

{¶10} Based on our discussion in Section I, we need not discuss appellant's remaining assignments of error. See App.R. 12(A)(1)(c).

Judgment affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the Cleveland Municipal Court to carry this judgment into execution. Case remanded to the trial court for execution of sentence.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

TIMOTHY E. McMONAGLE
ADMINISTRATIVE JUDGE

ANNE L. KILBANE, J., AND

JAMES J. SWEENEY, J., CONCUR

N.B. This entry is an announcement of the court's decision. See App.R. 22(B), 22(D) and 26(A); Loc.App.R. 22. This decision will be journalized and will become the judgment and order of the court pursuant to App.R. 22(E) unless a motion for reconsideration with supporting brief, per App.R. 26(A), is filed within ten (10) days of the announcement of the court's decision. The time period for review by the Supreme Court of Ohio shall begin to run upon the journalization of this court's announcement of decision by the clerk per App.R. 22(E). See, also, S.Ct.Prac.R. II, Section 2(A)(1).