

[Cite as *State v. Murphy*, 2003-Ohio-2306.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT
COUNTY OF CUYAHOGA
No. 81696

STATE OF OHIO. :
 :
Plaintiff-Appellee : JOURNAL ENTRY
 :
vs. : AND
 :
JIMMIE MURPHY, : OPINION
 :
Defendant-Appellant :
 :

DATE OF ANNOUNCEMENT MAY 8, 2003
OF DECISION

CHARACTER OF PROCEEDING : Criminal appeal from
Common Pleas Court
Case No. CR-420948

JUDGMENT : DISMISSED

DATE OF JOURNALIZATION :

APPEARANCES:

For Plaintiff-Appellee: WILLIAM D. MASON
Cuyahoga County Prosecutor
DREW SMITH
Assistant County Prosecutor
Justice Center - 9th Floor
1200 Ontario Street
Cleveland, Ohio 44113

For Defendant-Appellant: ROBERT L. TOBIK
Chief Public Defender
ROBERT M. INGERSOLL
Assistant Public Defender

100 Lakeside Place
1200 West Third Street
Cleveland, Ohio 44113-1513

ANNE L. KILBANE, J.:

{¶1} Sua sponte, this case is dismissed for lack of a final appealable order. At the sentencing hearing and in the judgment entry the judge purported to impose a single sentence for the two offenses for which the defendant was convicted. Pursuant to Crim.R. 32(C), this is not a final order because the judge is required to render a judgment upon each offense.¹ A judgment that does not allow a reviewing court to determine the particular sentence for each offense does not satisfy this requirement.²

{¶2} We also note that the indictment in this case appears to charge two fourth degree felonies and the judge's verdict appears to find the defendant guilty of the offenses as charged, but in sentencing she stated that he was guilty of one fourth degree felony and one fifth degree felony, although she did not specify which was which. The judgment entry states that both offenses are fifth degree felonies, yet states that the defendant will be subject to up to thirty months imprisonment if he violates the conditions of community control. This confusion also should be addressed.

¹*State v. Brown* (1989), 59 Ohio App.3d 1, 569 N.E.2d 1068.

²*Id.*; *State v. Collins* (Oct. 18, 2001), Cuyahoga App. No. 79064; *State v. Connor* (Oct. 31, 1996), Cuyahoga App. No. 70057.

Appeal dismissed.

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

It is ordered that a special mandate issue out of this court directing the Cuyahoga County Court of Common Pleas to carry this judgment into execution.

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

MICHAEL J. CORRIGAN, P. J., And
SEAN C. GALLAGHER, J., Concur

ANNE L. KILBANE
JUDGE

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).