

[Cite as *State v. Harris*, 2003-Ohio-3952.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 82037

STATE OF OHIO	:	
	:	
Plaintiff-appellee	:	
	:	JOURNAL ENTRY
vs.	:	and
	:	OPINION
WILLARD HARRIS, JR.	:	
	:	
Defendant-appellant	:	
	:	
DATE OF ANNOUNCEMENT OF DECISION	:	JULY 24, 2003
CHARACTER OF PROCEEDING	:	Criminal appeal from Cuyahoga
	:	County Court of Common Pleas
	:	Case No. CR-424674
JUDGMENT	:	AFFIRMED.
DATE OF JOURNALIZATION	:	
APPEARANCES:		
For plaintiff-appellee:		WILLIAM D. MASON Cuyahoga County Prosecutor KRISTEN L. LUSNIA, Assistant Justice Center, Courts Tower 1200 Ontario Street Cleveland, Ohio 44113
For defendant-appellant:		ROBERT L. TOBIK Cuyahoga County Public Defender PAUL KUZMINS, Assistant 1200 West Third Street, N.W. 100 Lakeside Place

KENNETH A. ROCCO, A.J.:

{¶1} Appellant Willard Harris Jr. appeals from the concurrent sentences of six months' imprisonment imposed upon him for possession of drugs, drug trafficking with a juvenile specification, and possession of criminal tools. He argues that the sentence is contrary to law and violates R.C. 2929.11(B), which requires the court to ensure that consistent sentences are imposed for similar offenders. We find no merit in appellant's argument and affirm the sentences imposed.

{¶2} Appellant was charged in a four-count indictment filed June 21, 2002, with one count of possession of drugs, two counts of drug trafficking, both of which carried juvenile specifications, and possession of criminal tools. Following a jury trial, appellant was found guilty of possession of drugs, one count of drug trafficking with a juvenile specification, and possession of criminal tools. The jury found appellant not guilty of the other drug trafficking count. The court referred the matter for a presentence investigation. Thereafter, the court sentenced appellant to a term of six months' imprisonment on each count, the sentences to run concurrently with one another.

{¶3} In this appeal, appellant claims that the sentences imposed were contrary to law because the court failed to determine

that the sentences were "consistent with sentences imposed for similar crimes committed by similar offenders," as required by R.C. 2929.11(B). There is nothing in the record to demonstrate that the court did not consider the sentences imposed for similar crimes by similar offenders. Unlike many other parts of the sentencing statutes, R.C. 2929.11(B) does not require the court to make express findings. Cf. *State v. Edmondson* (1999), 86 Ohio St.3d 324. Thus, the lack of any express finding regarding consistency is neither surprising nor erroneous. Moreover, the court's judgment entry expressly finds that "prison is consistent with the purpose of R.C. 2929.11." Six months' imprisonment is the minimum the court may impose for any of these offenses, if it imposes a term of imprisonment at all. R.C. 2929.14(A)(4) and (5).

Therefore, appellant has failed to demonstrate that the court erred by imposing a term of imprisonment, or that he was prejudiced by the length of the term of imprisonment imposed.

{¶4} Although R.C. 2929.11(B) directs trial courts to impose felony sentences which are "consistent with sentences imposed for similar crimes by similar offenders," the legislature has not identified the means by which the courts should attain this goal. Neither individual practitioners, government attorneys, trial courts nor appellate courts have the resources to assemble reliable information about sentencing practices throughout the state. *State v. Haamid*, Cuyahoga App. Nos. 80161, 80248, 2002 Ohio 3243 (Karpinski, J., concurring). Identification of the data and

factors which should be compared in deciding whether a crime or an offender is "similar" in itself would be a massive task, yet the identification of such data would be essential even to begin to build a database. Unless and until someone undertakes this daunting task, "appellate courts will be able to address the principle of consistency only to a very limited degree." *Id.*

{¶5} Accordingly, we overrule appellant's assignment of error and affirm the judgment of the common pleas court.

Affirmed.

It is ordered that appellee recover of appellant its 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 common pleas court to carry this judgment into execution. The defendant's conviction having been affirmed, any bail pending appeal is terminated. 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.

ADMINISTRATIVE JUDGE
KENNETH A. ROCCO

PATRICIA A. BLACKMON, J. and

DIANE KARPINSKI, 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).