

[Cite as *State v. Goss*, 2005-Ohio-883.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 84469

STATE OF OHIO

Plaintiff-Appellee

-VS-

NICHOLAS GOSS

Defendant-Appellant

:
:
: JOURNAL ENTRY
:
: AND
:
: OPINION
:

Date of Announcement
of Decision:

MARCH 3, 2005

Character of Proceeding:

Criminal appeal from
Court of Common Pleas
Case No. CR-442093

Judgment:

Reversed and remanded.

Date of Journalization:

Appearances:

For Plaintiff-Appellee:

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For Defendant-Appellant:

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JAMES J. SWEENEY, P.J.:

{¶ 1} Defendant-appellant Nicholas Goss (“defendant”) appeals from his convictions for trafficking in marijuana and possession of criminal tools. For the following reasons, we reverse and remand.

{¶ 2} In his sole assignment of error defendant contends:

{¶ 3} “I. Appellant did not knowingly voluntarily and intelligently waive his right to counsel which violated his rights under the VI Amendment of the United States Constitution.”

{¶ 4} The State concedes the error based on the authority of *State v. Martin*, 103 Ohio St.3d 385, 2004-Ohio-5471. We have reviewed the record and find this assignment of error has merit. The trial court did not substantially comply with Crim.R. 44(A) when it addressed defendant’s waiver of his right to counsel. *Id.* Therefore, defendant’s sole assignment of error is sustained.

Judgment reversed and remanded.

It is ordered that appellant recover of appellee his 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 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.

KENNETH A. ROCCO, J., and

MICHAEL J. CORRIGAN, J., CONCUR.

JAMES J. SWEENEY
PRESIDING 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. 112, Section 2(A)(1).