

[Cite as *State v. Hunt*, 2006-Ohio-6440.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 87750

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

CLARENCE HUNTER

DEFENDANT-APPELLANT

**JUDGMENT:
AFFIRMED**

Criminal Appeal from the
Cuyahoga County Common Pleas Court
Case No. CR-468262

BEFORE: Corrigan, J., Sweeney, P.J., and Gallagher, J.

RELEASED: December 7, 2006

JOURNALIZED:

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MICHAEL J. CORRIGAN, J.:

{¶ 1} The court sentenced defendant Clarence Hunter on a first degree misdemeanor conviction without first spreading upon the record its consideration of the sentencing factors contained in R.C. 2929.22, nor did it consider whether community controlled sanctions would be appropriate in lieu of jail time. The state concedes that the court acted erroneously by failing to do so, and agrees with Hunter that we should reverse and remand for resentencing. With all due respect to the state's concession, we see no legal basis for finding error. While R.C. 2929.21 and R.C. 2929.22 requires the court to consider a number of factors in

misdemeanor sentencing, there is no obligation for the court to set forth its reasons for imposing sentence. Appellate courts will presume that the trial court considered the factors set forth in R.C. 2929.22 when the sentence is within the statutory limits, absent an affirmative showing to the contrary. See *Euclid v. Gage-Vaughn*, Cuyahoga App. No. 86498, 2006-Ohio-1941, at ¶28; *Cleveland v. Buckley* (1990), 67 Ohio App.3d 799; *Strongsville v. Cheriki* (Mar. 4, 1999), Cuyahoga App. No. 73800. The sentence given to Hunter fell within the statutory range, and Hunter makes no affirmative showing, on this silent record, that the court did not consider the appropriate factors.

Judgment 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 Cuyahoga County 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.

MICHAEL J. CORRIGAN, JUDGE*

JAMES J. SWEENEY, P.J., and
SEAN C. GALLAGHER, J., CONCUR

(*Sitting by Assignment: Judge Michael J. Corrigan, Retired, of the Eighth District Court of Appeals.)

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