

[Cite as *State v. Coe*, 2011-Ohio-1561.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 95068

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

JEFFREY J. COE

DEFENDANT-APPELLANT

**JUDGMENT:
AFFIRMED**

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-484995

BEFORE: Kilbane, A.J., Blackmon, J., and Rocco, J.

RELEASED AND JOURNALIZED: March 31, 2011

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MARY EILEEN KILBANE, A.J.:

{¶ 1} Defendant-appellant, Jeffrey Coe, appeals from the order of the trial court that imposed community work service upon him in lieu of payment of court costs. For the reasons set forth below, we affirm.

{¶ 2} On August 17, 2006, defendant was indicted for one count of identity fraud and one count of theft. On May 16, 2007, defendant pled guilty to identity fraud and theft. On June 29, 2007, the trial court sentenced defendant to a two-year term of community control sanctions, and ordered that he pay restitution in the amount of \$1,073.55, a supervision fee of \$200, and court costs.

{¶ 3} On June 24, 2009, the trial court held a hearing on whether defendant had violated his community control sanctions. The trial court then issued a journal entry that stated in part:

“Hearing on alleged violations of community control sanctions.

Hearing had.

No finding.

Community control is continued and extended to 06/29/10, with prior conditions.

Defendant to complete court community work service in lieu of court costs and supervision fee.”

{¶ 4} On March 10, 2010, defendant filed a pro se motion to terminate probation, arguing that he had been on community control supervision for two years and nine months, that he had lost his job and could not pay the costs, and that he received an order of discharge of his financial obligations on November 12, 2009.

{¶ 5} On April 12, 2010, the trial court held a hearing on defendant’s motion. At this time, defendant maintained that the fees and court costs had been discharged in bankruptcy; therefore, there was no basis for the imposition of community work service. The trial court rejected this contention. It determined that defendant was in violation of the community control sanctions and extended defendant’s community control supervision to July 29, 2011. The court additionally ordered defendant to “perform community work service for 100 hours.”

{¶ 6} Defendant now appeals, assigning the following error for our review:

“The trial court was without jurisdiction to impose community work service upon the appellant for not paying court costs because this debt had been discharged in bankruptcy.”

{¶ 7} In this assignment of error, defendant maintains that because the bankruptcy court ordered the discharge of all of his scheduled debts, including the court costs imposed in this matter, the trial court was without jurisdiction to order him to perform community work service in lieu of payment of those costs.

{¶ 8} This court has previously upheld trial court's sentences that included imposition of community work service in lieu of court costs. See *State v. Lamis* (2000), 139 Ohio App.3d 617, 744 N.E.2d 1260; *State v. Rose* (Mar. 20, 1997), Cuyahoga App. No. 70984.

{¶ 9} In this matter, the trial court's June 24, 2009 order states "[d]efendant to complete court community work service in lieu of court costs and supervision fee." Therefore, as of that date, defendant was no longer obligated to pay his court costs and fees in this matter. Defendant filed his bankruptcy petition on July 31, 2009, one month after the trial court had already ordered defendant to complete community work service in lieu of paying costs and fees. Thus, the discharge of defendant's financial obligations including court costs addressed a moot issue and does not preclude the defendant from performing community work service as ordered on June 24, 2009.

{¶ 10} Appellant's assignment of error is without merit and overruled.

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 be sent to said court 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.

MARY EILEEN KILBANE, ADMINISTRATIVE JUDGE

PATRICIA A. BLACKMON, J., and

KENNETH A. ROCCO, J., CONCUR