

[Cite as *State v. Wright*, 2011-Ohio-733.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

---

JOURNAL ENTRY AND OPINION  
**No. 95096**

---

**STATE OF OHIO**

PLAINTIFF-APPELLEE

vs.

**WILLIAM WRIGHT**

DEFENDANT-APPELLANT

---

**JUDGMENT:  
AFFIRMED**

---

Criminal Appeal from the  
Cuyahoga County Court of Common Pleas  
Case No. CR-508029

**BEFORE:** Stewart, P.J., Cooney, J., and Keough, J.

**RELEASED AND JOURNALIZED:** February 17, 2011

## **ATTORNEY FOR APPELLANT**

Kimberly K. Yoder  
Kimberly K. Yoder Co., LPA  
1236 Smith Court  
Cleveland, OH 44116

## **FOR APPELLANT**

William Wright, Pro Se  
Inmate No. 561-218  
Marion Correctional Institution  
P.O. Box 57  
Marion, OH 43301

## **ATTORNEYS FOR APPELLEE**

William D. Mason  
Cuyahoga County Prosecutor

BY: Diane Smilanick  
Assistant County Prosecutor  
The Justice Center  
1200 Ontario Street, 8th Floor  
Cleveland, OH 44113

MELODY J. STEWART, P.J.:

{¶ 1} Defendant-appellant, William Wright, appeals from a resentencing ordered by this court at which the state of Ohio elected to have Wright sentenced on one of four allied child endangering counts. Through assigned counsel, he complains that the court abused its discretion by imposing the maximum term of incarceration and that the court

should have imposed the minimum sentence because he had not previously served a prison term. He also raises five pro se assignments of error.

{¶ 2} A jury found Wright guilty of four counts of child endangering. On direct appeal, we affirmed his convictions in all respects but remanded for resentencing because the four child endangering counts were allied offenses. See *State v. Wright*, 8th Dist. No. 92594, 2010-Ohio-243. On remand, the state elected to have Wright sentenced on Count 1, a second degree felony. The court imposed the maximum prison term of eight years — the same sentence it had originally imposed on that count.

{¶ 3} In *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470, the supreme court held that “[t]rial courts have full discretion to impose a prison sentence within the statutory range and are no longer required to make findings or give their reasons for imposing maximum, consecutive, or more than the minimum sentences.” *Id.* at paragraph seven of the syllabus. The court need only consider the sentencing factors contained in R.C. 2929.11(A), which states that a trial court that sentences an offender for a felony conviction must be guided by the overriding purposes of felony sentencing: “to protect the public from future crimes by the offender and others and to punish the offender.” *Id.* Under R.C. 2929.11(B), a felony sentence must be reasonably calculated to achieve the purposes set forth under R.C. 2929.11(A), commensurate with and not demeaning to the seriousness of the crime and its impact on the victim, and consistent with sentences imposed for similar crimes committed by similar offenders. *Id.*

{¶ 4} The court’s sentencing entry states that it considered “all required factors of the law” and that a prison term “is consistent with the purpose of R.C. 2929.11.” The court’s recitation that it considered the required statutory factors, without more, is sufficient to fulfill its obligations under the statute. *State v. Payne*, 114 Ohio St.3d 502, 2007-Ohio-4642, 873 N.E.2d 306, ¶18; *State v. Braxton*, 8th Dist. No. 90273, 2008-Ohio-3083, ¶6.

{¶ 5} The court did, however, state on the record during sentencing that it reviewed the facts produced at trial and clearly recalled the injuries suffered by the victim, finding that Wright’s acts constituted the “worst form of the offense” of child endangering. The court plainly concluded that Wright’s acts were of a kind that would make a minimum sentence demeaning to the seriousness of the crime, thus leading the court to impose the maximum sentence. The first and second assignments of error are overruled.

{¶ 6} Wright also sets forth five pro se assignments of error: (1) his pretrial speedy trial rights were violated; (2) the court lacked jurisdiction because the complaint filed against him failed to contain a jurat as required by Crim.R. 3; (3) the court erred by overruling his pretrial motion to suppress evidence; (4) the court should have dismissed the charges against him because he was charged in multiplicitous indictments; and (5) his resentencing constituted an unreasonable delay in imposing sentence under Crim.R. 32(A).

{¶ 7} We summarily overrule the first, second, third, and fourth pro se assignments of error because those issues were either raised and rejected in Wright’s direct appeal or could have been raised on direct appeal and are thus res judicata. *State v. Perry* (1967), 10 Ohio St.2d 175, 226 N.E.2d 104, paragraph nine of the syllabus.

{¶ 8} We likewise summarily overrule the fifth pro se assignment of error because the Crim.R. 32(A) requirement that “[s]entence shall be imposed without unnecessary delay” is not applicable to resentencings. See *State v. McQueen*, 8th Dist. No. 91370, 2009-Ohio-1085, ¶4.

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 Court of Common Pleas 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.

---

MELODY J. STEWART, PRESIDING JUDGE

COLLEEN CONWAY COONEY, J., and  
KATHLEEN ANN KEOUGH, J., CONCUR

