

[Cite as *State v. Piggee*, 2015-Ohio-596.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 101331

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

JACQUEA PIGGEE

DEFENDANT-APPELLANT

JUDGMENT:
AFFIRMED

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-13-578647-A

BEFORE: Jones, J., Celebrezze, A.J., and Boyle, J.

RELEASED AND JOURNALIZED: February 19, 2015

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LARRY A. JONES, SR., J.:

{¶1} Defendant-appellant Jacquea Piggee appeals her convictions for endangering children and permitting child abuse. We affirm.

I. Procedural History and Facts

{¶2} In 2014, Piggee was charged with three counts of endangering children, two counts were felonies of the second degree, in violation of R.C. 2919.22(B)(1) and (B)(2), and one count was a felony of the third degree, in violation of R.C. 2919.22(A). She was also charged with a single count of permitting child abuse, a felony of the third degree, in violation of R.C. 2903.15(A). The matter proceeded to a jury trial, at which the following pertinent evidence was presented.

{¶3} On September 26, 2013, Piggee called 911 complaining that her ten-week old baby boy, D. P., Jr. (“Diontay”), had a nosebleed. The baby was transported via ambulance to MetroHealth Medical Center. The hospital subsequently contacted the Cleveland police due to Diontay’s declining condition and the staff’s assessment that the baby’s injuries “didn’t fit” Piggee’s reason for the baby’s condition.

{¶4} Cleveland police officer William Feador responded to MetroHealth and was informed that the baby had serious injuries and was nonresponsive. Diontay’s injuries included a fractured skull, bleeding on the brain, multiple new and healing rib fractures, a retinal hemorrhage, and a subdermal hematoma in his spinal area.

{¶5} The hospital social worker told Officer Feador that Piggee’s version of events was that she (Piggee) had walked her older child to school, came home, the baby was still in bed, her boyfriend [Diontay’s father] was watching the child, they watched some TV, they were going to go outside and smoke a cigarette, they checked on the child, and she noticed blood on the sheets

and called EMS. Upon questioning, Piggee reiterated the same story to the officer.

{¶6} Detective Thomas Ross testified that when the call came in to respond to MetroHealth, he was told to hurry because the doctors thought the baby was going to die. Detective Ross began his initial investigation and determined there was enough probable cause to arrest both Piggee and the baby's father, Diontay Phillips ("Phillips").

{¶7} Detective Ross interviewed Piggee after transporting her back to the police station. The interview was video-recorded and the recording was played for the jury and entered into evidence. During the interview, Piggee insisted that Diontay had been fine when she left him to walk her daughter to school. She claimed that it must have been the baby's father, Phillips, who injured the baby.

{¶8} Piggee told the detective that she and Phillips had been dating for two years. At the time of this incident, Piggee had been living in her apartment for a week and lived with her two children. Although Phillips did not live with her, he spent time at the apartment and with the children, and had spent two or three nights with her since she had moved in. Phillips spent the night on September 25, 2013. The next morning, Piggee gave Diontay to Phillips "to feed and put down for a nap" while she got her daughter ready for school. She walked her daughter to school and was gone "5-10 minutes." When she returned, the baby was in his bed and seemed "fine." Piggee told the detective that she and Phillips "had relations" and then were going outside to smoke. Phillips checked on the baby and called Piggee over, who saw mucus mixed with blood next to his nose. She picked the baby up, "he went limp," and Piggee called 911.

{¶9} Piggee continually insisted that Phillips "must have done it," because "my baby was fine" before she left to walk her daughter to school. Piggee asked if she could take a lie detector test and also asked the detective what happens to someone's brain if that person smokes drugs,

like “crack” or “woo.” She questioned whether “woo,” a common name for PCP, could have caused Phillips to be violent. Piggee also blamed Phillips’s short temper. She said Phillips must have gotten upset with the baby’s crying, and stated that he did not like it when the baby cried: “I think he got a short temper, if the baby cries, he gets mad * * * I think he got agitated with the baby’s crying.”

{¶10} Piggee told the detective that her seven-year old daughter admitted to dropping the baby the day before his injuries were discovered. When the detective told Piggee that her daughter’s actions did not cause Diontay’s severe injuries, Piggee said then it must have been Phillips who harmed him, “he had to do that * * * I don’t have no [criminal] record.”

{¶11} When asked, Piggee admitted she had seen “red flags” with Phillips’s temper and had been concerned about leaving the children alone with him, but, she contested, “when I think like that, I take my son with me. I didn’t think on a school day he’s about to hurt his son.”

{¶12} The detective noted that Piggee did not seem too upset at the hospital regarding the condition of her son and only became emotional once he had her in custody. During the interview, Piggee questioned the detective what the possible charges against her would be and how long she would have to spend in jail. She did not ask about Diontay’s condition.

{¶13} Dr. Dennis Super treated the baby in the NICU. Dr. Super noted that the baby had significant metabolic acidosis, which he explained is when the body lacks oxygen and starts producing acid in its place. Dr. Super testified that the baby appeared dazed and the CAT scan of the baby’s head showed evidence of a subdermal hematoma as well as a fracture. The baby had a blood clot surrounding his spinal column; the doctor recommended a blood transfusion and a MRI.

{¶14} During his stay in the hospital, Diontay began to develop seizures that Dr. Super

opined were caused by a brain injury. The baby was given phenobarbital to help control the seizures, but his medical condition continued to decline.

{¶15} Dr. Super testified that he was unaware of Piggee’s allegation that the child’s injuries may have been the result of her daughter dropping him. But, Dr. Super testified, “a three, maybe four foot fall,” from being dropped by a seven-year-old “would be unlikely to cause the multitude of injuries” Diontay sustained. He listed Diontay’s injuries as “fractured ribs, the retina hemorrhage, the subdermal hematoma in the spinal area, [and] the skull fracture.”

{¶16} Radiologist Dr. Rajiv Shah testified that he reviewed the baby’s CAT and MRI scans. He found that the baby had suffered significant trauma, trauma that lead to bleeding in the different spaces of the brain, and damage to the brain, the brain covering, and the skull. The scans showed:

a lot of blood in the spine. * * * [I]t’s rare to see that kind of blood in that kind of setting. That almost tells you what kind of mechanism it was. * * * So it’s a mechanism that causes sheering [sic] of the vessels from shaking. * * * When there is trauma to the veins, especially during shaking or agitation, you sheer [sic] the veins.

* * * This is the type of trauma we see in a non-accidental trauma.

{¶17} Dr. Shah also noted multiple rib fractures on both sides of the baby’s body, which included both new and healing fractures. He further noted:

If you hit somebody, the bone has actually — the brain has swollen up. There is very little space. When the brain swells, the bone has to move. In this case, the fracture, the swelling is so much that the bone has moved outside. The brain is pretty much dead at this point. There is no distinction between the outer layer and inner layer because the whole brain is dead.

* * *

The reason this [brain] tissue died is because there was lack of oxygen. It wasn’t just merely throwing the baby on the floor or throwing — it was a matter of decreasing the flow to the brain for a significant amount of time.

{¶18} Dr. Shah testified that the baby's follow-up CAT scans revealed severe brain damage including irreversible damage to the parts of the brain that control "critical thinking, speaking, comprehension." According to Dr. Shah, the only part of Diontay's brain that remained undamaged was that which controlled "rudimentary function, like breathing and swallowing."

{¶19} Dr. Mark Feingold testified that he ran a specialized program at Metrohealth that investigated child abuse-related injuries. He viewed the ten-week old baby's scans and several healing rib fractures that were at least 10-14 days old at the time of the imaging study in addition to the new rib fractures. Dr. Feingold testified that the type of force necessary to cause the fractures to the baby's ribs was a "force that compressed the ribs," like "squeezing." The doctor also found "a large accumulation of blood along the spinal cord in the area from the low chest to the mid-back * * * and that [type of injury] would require some sort of high energy, whiplashing motion."

{¶20} Dr. Feingold found that Diontay suffered from a retinal hemorrhage, which he found unusual, opining that "it does not occur with minor injuries or minor falls." He testified that the type of retinal hemorrhage the baby suffered can be caused by: (1) a motor vehicle accident; (2) oscillating or shaking injury that creates a lot of force; (3) a serious infectious eye disease; or (4) a rare metabolic disease. Dr. Feingold was able to easily rule out that Diontay had an eye infection, metabolic disease, or had been in a car accident.

{¶21} The evidence presented at trial also showed that Piggee and Phillips had a violent history. The medical records from the baby's birth in July 2013 revealed that the nursing staff witnessed an altercation between the couple. Nursing staff witnessed Phillips with his "hands around mother's neck" while outside the NICU. Piggee tried to downplay the incident, telling

the social worker that they were “playing around,” “always play rough,” and Phillips grabbed her, but “not forcefully.” A hospital social worker was brought in to meet with the couple and a referral was made to children and family services.

{¶22} Then, during the baby’s September 2013 hospitalization, Metrohealth nurse Christine Bowery testified that she witnessed a similar altercation in the NICU hallway between Piggee and Phillips. Bowery testified: “They were just like talking, and then the next thing that I saw [Phillips] pushing [Piggee], grabbing [Piggee] by the neck and pushing [her] up against the wall.” Piggee told security that Phillips was just “messaging around.” According to the incident report, when Bowery tried to intervene, Piggee defended Phillips and Phillips told the nurse he could treat Piggee how he wanted because he was the father of her baby. Piggee’s mother, who also tried to downplay the incident, and Piggee’s seven-year old daughter also witnessed the altercation. Bowery noted that neither the grandmother nor the young daughter seemed surprised or upset by the incident.

{¶23} The jury convicted Piggee of two counts of endangering children and one count of permitting child abuse and the court sentenced her to a total of seven years in prison. At a prior, separate hearing, Phillips pleaded guilty to two counts of endangering children and was sentenced to five years in prison.

{¶24} Diontay Phillips, Jr., succumbed to his injuries and died in January 2015.

II. Assignments of Error

{¶25} Piggee raises the following assignments of error for our review:

- I. The jury found, against the manifest weight of the evidence, that the appellant committed the acts alleged in the indictment.
- II. The evidence was not legally sufficient to sustain a guilty verdict.

III. Appellant was denied effective assistance of counsel in violation of Amendments VI and XIV, United States Constitution; and Article I, Section 10, Ohio Constitution.

IV. The trial court abused its discretion by imposing a prison sentence contrary to R.C. 2929.14 and the purposes and principles of the felony sentencing guidelines.

III. Law and Analysis

Sufficiency and Manifest Weight of the Evidence

{¶26} In the first and second assignments of error, Piggee argues that her convictions were not sustained by sufficient evidence and were against the manifest weight of the evidence.

{¶27} When assessing a challenge of sufficiency of the evidence, a reviewing court examines the evidence admitted at trial and determines whether such evidence, if believed, would convince the average mind of the defendant's guilt beyond a reasonable doubt. *State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991), paragraph two of the syllabus. "The relevant inquiry is whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt." *Id.* A reviewing court is not to assess "whether the state's evidence is to be believed, but whether, if believed, the evidence against a defendant would support a conviction." *State v. Thompkins*, 78 Ohio St.3d 380, 390, 678 N.E.2d 541 (1997).

{¶28} While the test for sufficiency of the evidence requires a determination whether the state has met its burden of production at trial, a manifest weight challenge questions whether the state has met its burden of persuasion. *Id.* Also unlike a challenge to the sufficiency of the evidence, a manifest weight challenge raises a factual issue:

The court, reviewing the entire record, weighs the evidence and all reasonable inferences, considers the credibility of witnesses and determines whether in

resolving conflicts in the evidence, the jury clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed and a new trial ordered. The discretionary power to grant a new trial should be exercised only in the exceptional case in which the evidence weighs heavily against the conviction.

Id. at 387, quoting *State v. Martin*, 20 Ohio App.3d 172, 175, 485 N.E.2d 717 (1st Dist.1983).

{¶29} “[T]he weight to be given the evidence and the credibility of the witnesses are primarily for the trier of the facts.” *State v. DeHass*, 10 Ohio St.2d 230, 227 N.E.2d 212 (1967), paragraph one of the syllabus. When examining witness credibility, “the choice between credible witnesses and their conflicting testimony rests solely with the finder of fact and an appellate court may not substitute its own judgment for that of the finder of fact.” *State v. Awan*, 22 Ohio St.3d 120, 123, 489 N.E.2d 277 (1986). A factfinder is free to believe all, some, or none of the testimony of each witness appearing before it. *State v. Ellis*, 8th Dist. Cuyahoga No. 98538, 2013-Ohio-1184, ¶ 18.

{¶30} Piggee was convicted of endangering children, under R.C. 2919.22(B), which provides that, “No person shall do any of the following to a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age: (1) Abuse the child.” She was also convicted of endangering children, in violation of R.C. 2919.22(A), which provides that, “No person, who is the parent * * * of a child under eighteen years of age * * * shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection, or support.” Finally, Piggee was convicted of permitting child abuse, in violation of R.C. 2903.15(A), which provides that,

No parent * * * shall cause serious physical harm to the child, or the death of the child, as a proximate result of permitting the child to be abused, to be tortured, to be administered corporal punishment or other physical disciplinary measure, or to be physically restrained in a cruel manner or for a prolonged period.

{¶31} Piggee argues that the state failed to present sufficient evidence that she failed in her duty to act citing a lack of evidence that Piggee injured Diontay, allowed Phillips to injure the baby, or was even aware that any abuse had occurred. To support her position, Piggee alleges that as soon as she noticed something wrong with Diontay, she called 911. She also points to the testimony of the responding EMS worker, who testified that the baby did not appear to be in distress, was breathing normally, and did not have blood on him.

{¶32} When we consider the evidence in the light most favorable to the prosecution, we find that there was sufficient evidence to sustain Piggee's convictions.

{¶33} "A parent clearly has a duty imposed by law to protect his or her child from abuse and to care for the child's injuries." *State v. Hockett*, 8th Dist. Cuyahoga No. 95232, 2011-Ohio-2911, ¶ 31; *State v. Sammons*, 58 Ohio St.2d 460, 463, 391 N.E.2d 713 (1979).

{¶34} The Supreme Court of Ohio has held that recklessly is the requisite mental state for endangering children in violation of R.C. 2919.22(A). *State v. McGee*, 79 Ohio St.3d 193, 195, 680 N.E.2d 975 (1997). When a parent recklessly fails to provide the care necessary for a child's health, morals or well-being and when this reckless breach of the statutory duty poses a substantial risk to the health or safety of such child, the parent has violated R.C. 2919.22(A).

A person acts recklessly when, with heedless indifference to the consequences, he perversely disregards a known risk that his conduct is likely to cause a certain result or is likely to be of a certain nature. A person is reckless with respect to circumstances when, with heedless indifference to the consequences, he perversely disregards a known risk that such circumstances are likely to exist.
R.C. 2901.22(C).

{¶35} Piggee continuously maintained that she never harmed her child, but she admitted that Phillips, who had access to and cared for the baby, had a temper and did not like it when the baby cried. Piggee told Detective Ross that Phillips smoked drugs and maintained that he must

have harmed the baby because he was upset the baby was crying or the injuries were caused when her daughter dropped the baby. But the medical professionals opined that Diontay's injuries were too severe and varied to have been caused by his sister dropping him.

{¶36} Piggee also admitted that she had seen “red flags” with regard to Phillips’s temper and was concerned about leaving the children alone with him. She told the detective that when she thought Phillips’s temper would flare, she would take the baby with her, but did not think that he would harm the baby during the short time she walked her daughter to school.

{¶37} While the baby was in the NICU, Metrohealth staff witnessed a violent altercation between Piggee and Phillips. Nurse Bowery testified that she witnessed Phillips push and choke Piggee in the hallway of the hospital. Piggee’s daughter also witnessed the event. Phillips told Bowery that he could treat Piggee that way because he was the father of her baby. Metrohealth staff also witnessed a similar altercation between the parents shortly after the baby was born that resulted in a referral to children and family services and a hospital social worker being brought in to consult with the family.

{¶38} Dr. Feingold testified that Diontay suffered from both new and healing injuries; the healing injuries consisted of multiple rib fractures that were approximately 10-14 days old. Although it is not known exactly who harmed Piggee and Phillips’s 10-week-old son, and whether the injuries were caused by one or more people, the evidence showed that Piggee was the baby’s primary caretaker and Phillips also had access to and cared for the baby. Both parents were unemployed and there was no evidence that anyone else cared for the child; the medical records stated the child had “no [baby]sitters”.

{¶39} The Supreme Court of Ohio has held that “circumstantial evidence and direct evidence inherently possess the same probative value and therefore should be subjected to the

same standard of proof.”’ *State v. Biros*, 78 Ohio St.3d 426, 447, 678 N.E.2d 891 (1997), quoting *State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991), paragraph one of the syllabus.

Thus, while there may have not been overwhelming direct evidence that Piggee herself caused the baby’s injuries, there was substantial circumstantial evidence that she either caused his serious injuries or was complicit in that regard.¹

{¶40} While in the primary care of mother, Diontay suffered from multiple serious injuries. Piggee denied knowledge of the cause and gave both inconsistent and unreasonable explanations regarding the source of his injuries.

Therefore, when we view the evidence most strongly in favor of the state, as we must, we find sufficient evidence was presented to support Piggee’s convictions. *See State v. Cheney-Shaw*, 8th Dist. Cuyahoga Nos. 76828 and 76829, 2000 Ohio App. LEXIS 3925 (Aug. 31, 2000). Thus, a rational trier of fact could have found the essential elements of the crime of endangering children and permitting child abuse proven beyond a reasonable doubt.

{¶41} We also do not find that her convictions were against the manifest weight of the evidence. The baby’s doctors testified that Piggee’s explanation that her daughter dropped the baby did not adequately explain how the variety of injuries occurred nor did it adequately explain the severity of his injuries. The doctors also testified that the injuries suffered by the baby as well as the location of the injuries were unusual given his age and indicated that he had been abused. Given this testimony, the jury could reasonably choose to believe the state’s witnesses and disbelieve the explanations offered by Piggee. Thus, the evidence does not weigh heavily against conviction.

¹The jury in this case was instructed on complicity and aiding and abetting.

{¶42} Therefore, considering the record as a whole, Piggee’s conviction was not against the manifest weight of the evidence.

{¶43} The first and second assignments of error are overruled.

Ineffective Assistance of Counsel

{¶44} In the third assignment of error, Piggee argues that she was afforded ineffective assistance of trial counsel.

{¶45} To establish ineffective assistance of counsel, an appellant must demonstrate that his or her lawyer’s performance fell below an objective standard of reasonable performance and that he or she was prejudiced by that deficient performance. *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); *State v. Brooks*, 25 Ohio St.3d 144, 495 N.E.2d 407 (1986). An appellant must show that, but for the lawyer’s deficient performance, the outcome of the hearing would have been different. *Id.*

{¶46} Piggee complains that her attorney should have hired an expert in Shaken Baby Syndrome. Piggee claims that an expert could have testified as to the many misconceptions and errors that often result from a theory of Shaken Baby Syndrome.

{¶47} An attorney is assumed to perform his or her duties ethically and competently. *State v. Lytle*, 48 Ohio St.2d 391, 396, 358 N.E.2d 623 (1976). A reviewing court will not second guess strategic decisions of trial counsel, at least insofar as they are reasonable. *Strickland* at 689; *State v. Hugbanks*, 1st Dist. Hamilton No. C-980595, 1999 Ohio App. LEXIS 5789 (Dec. 3, 1999). Piggee’s counsel could have reasonably expected that calling an expert in Shaken Baby Syndrome could have harmed his client more than helped her given the overwhelming evidence that her baby’s extensive and life-threatening injuries were caused by “non-accidental trauma” that included a “sheering [sic] of the vessels from shaking” or a “high

energy, whiplashing motion,” and in light of the fact that the state did call an expert witness in the syndrome to testify.

{¶48} Piggee also claims that her attorney failed to subpoena friends and relatives that could have testified as to her good character. Again, “counsel’s decision whether to call a witness falls within the rubric of trial strategy and will not be second-guessed by a reviewing court.” *State v. Rippey*, 10th Dist. Franklin No. 08AP-248, 2008-Ohio-6680, ¶ 14, citing *State v. Treesh*, 90 Ohio St.3d 460, 490, 739 N.E.2d 749 (2001). Further, Piggee merely speculates what a hypothetical character witness may have said during his or her testimony, but mere speculation as to what a witness might have testified to and how such testimony would have affected the trial’s outcome is insufficient to establish a claim of ineffective assistance of counsel. *Id.*, citing *State v. Wiley*, 10th Dist. Franklin No. 03AP-340, 2004-Ohio-1008, ¶ 30.

{¶49} Accordingly, Piggee is unable to demonstrate her counsel was ineffective, nor does she demonstrate any prejudice from her attorney’s alleged inadequacies. Because she has failed to satisfy the *Strickland* test, we overrule the third assignment of error.

Sentencing

{¶50} In the fourth assignment of error, Piggee challenges her sentence.

{¶51} In reviewing felony sentencing, our standard of review is not whether the sentencing court abused its discretion. R.C. 2953.08(G)(2). Instead, if we clearly and convincingly find that the sentence is contrary to law, we may increase, reduce, or otherwise modify a sentence that is appealed under this section or may vacate the sentence and remand the matter to the sentencing court for resentencing. *Id.*

{¶52} In reviewing whether a felony sentence is clearly and convincingly contrary to law, we are constrained by the fact that the sentencing range is determined by the legislature and any

sentence imposed within that range, after the sentencing court has considered all the sentencing factors, is presumptively valid. *State v. Collier*, 8th Dist. Cuyahoga No. 95572, 2011-Ohio-2791, ¶ 15, citing *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470.

{¶53} A sentence, therefore, is not clearly and convincingly contrary to law where the trial court (1) considers the purposes and principles of sentencing under R.C. 2929.11, including consistency in sentencing; (2) considers the seriousness and recidivism factors under R.C. 2929.12; (3) properly applies postrelease control; and (4) sentences a defendant within the permissible statutory range. *State v. A.H.*, 8th Dist. Cuyahoga No. 98622, 2013-Ohio-2525, ¶ 10, citing *State v. Kalish*, 120 Ohio St.3d 23, 2008-Ohio-4912, 896 N.E.2d 124.

{¶54} Piggee does not dispute that her sentence was within statutory guidelines, instead she complains it was unfair that she received more time than Phillips, whom, she argues, was the person responsible for the baby's injuries.

{¶55} Phillips, however, pleaded guilty pursuant to a plea agreement with the state, so the trial court was not privy to the detailed facts of the case and testimony about the extent of the baby's injuries. Moreover, Piggee failed to raise the issue of proportionality in the trial court. Thus, neither the trial court nor this court has any "starting point for analysis" of her assertion on appeal that her total sentence did not comply with R.C. 2929.11(B), and she has waived the issue for appellate review. *State v. Cooper*, 8th Dist. Cuyahoga No. 93308, 2010-Ohio-1983, ¶ 24.

{¶56} During Piggee's sentencing hearing, the trial court considered the severity of the baby's injuries. The court concluded from Piggee's statements at the hearing that her only concern was for herself, not for her injured child, and that she lacked remorse. The court also found that Piggee's lack of a criminal record was not relevant to sentencing and concluded that a prison sentence was warranted.

{¶57} Upon a review of the record, the trial court properly considered the applicable factors and principles set forth in R.C. 2929.11 and 2929.12, including recidivism factors and the need to punish Piggee. Piggee's contention that the trial court failed to consider the sentencing considerations under R.C. 2929.11 and 2929.12 is therefore without merit.

{¶58} The fourth and final assignment of error is overruled.

{¶59} 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 issue out of this court directing the common pleas 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.

LARRY A. JONES, SR., JUDGE

FRANK D. CELEBREZZE, JR., A.J., and
MARY J. BOYLE, J., CONCUR