

[Cite as *State v. Carswell*, 2015-Ohio-764.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
Nos. 101313 and 101314

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**STATE OF OHIO**

PLAINTIFF-APPELLEE

vs.

**KEVIN A. CARSWELL**

DEFENDANT-APPELLANT

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**JUDGMENT:**  
AFFIRMED

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Criminal Appeal from the  
Cuyahoga County Court of Common Pleas  
Case Nos. CR-13-573905-A and CR-13-578497-G

**BEFORE:** Jones, P.J., E.A. Gallagher, J., and Stewart, J.

**RELEASED AND JOURNALIZED:** March 5, 2015

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LARRY A. JONES, SR., P.J.:

{¶1} Defendant-appellant Kevin Carswell appeals his sentence on multiple drug convictions. We affirm.

{¶2} In 2014, Carswell was indicated in Cuyahoga C.P. No. CR-13-573905-A on one count each of drug trafficking, drug possession, and possessing criminal tools. In Cuyahoga C.P. No. CR-13-578497-G, he was indicted on eight counts of drug trafficking and four counts of drug possession. On March 5, 2014, pursuant to a plea agreement with the state of Ohio, Carswell pleaded guilty in Case No. CR-13-573905-A to possessing criminal tools and agreed to forfeit four cell phones, a scale, and \$2,339 in U.S. currency. He also pleaded guilty in CR-13-578497-G to three counts of drug trafficking.

{¶3} On April 9, 2014, the trial court held a sentencing hearing on both cases as well as a probation violation hearing. In Case No. CR-13-573905-A, the trial court sentenced Carswell to two years of community control sanctions. In Case No. CR-13-578497-G, the trial court imposed a prison sentence of 12 months. The court also found that Carswell violated his probation and terminated his probation. The court ordered the community control sanctions “to run consecutive” to the prison sentence.

{¶4} Carswell appeals, raising one assignment of error for our review, in which he argues that “[t]he lower court erred by imposing consecutive sentences without making findings of fact required by R.C. 2929.14(C)(4).”

{¶5} We will not reverse the sentence imposed in this case unless we clearly and convincingly find that it is contrary to law. *See* R.C. 2953.08(G)(2).

{¶6} R.C. 2929.13(A) provides that a court “that imposes a sentence upon an offender for a felony may impose any sanction or combination of sanctions on the offender that are provided

in sections 2929.14 to 2929.18 of the Revised Code.”

{¶7} Carswell argues that if a court orders a sentence of community control sanctions to run consecutive to a prison sentence, the court is required to make the R.C. 2929.14(C)(4) findings. We disagree.

{¶8} This court has held that where a trial court sentences a defendant for separate offenses, the trial court may impose a prison term for one offense and community control sanctions for another offense, and it may order the sentences to be run consecutively. *State v. Martin*, 8th Dist. Cuyahoga No. 100723, 2014-Ohio-3913, ¶ 9; *State v. May*, 8th Dist. Cuyahoga No. 97354, 2012-Ohio-2766, ¶ 29-31, citing R.C. 2929.13(A). *See also State v. LaSalla*, 8th Dist. Cuyahoga No. 99424, 2013-Ohio-4596, ¶ 34.

{¶9} R.C. 2929.14(C)(4) requires a trial court to make certain findings before “multiple prison terms are imposed on an offender for convictions of multiple offenses.” The statute clearly states that the findings are required before a court imposes multiple prison terms. Here, the trial court imposed concurrent prison sentences for each of the separate drug trafficking counts in Case No. CR-13-578497-G and a community control sanction for the single count of possessing criminal tools in Case No. CR-13-573905. The community control sanction was ordered to run consecutive to the prison sentences. No prison terms were ordered to run consecutive; therefore, the trial court did not have to make finding pursuant to R.C. 2929.14(C)(4).

{¶10} The sole assignment of error is overruled.

{¶11} 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.

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LARRY A. JONES, SR., PRESIDING JUDGE

EILEEN A. GALLAGHER, J., and  
MELODY J. STEWART, J., CONCUR