

[Cite as *State v. Thome*, 2017-Ohio-963.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 104445

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

SHAWNA M. THOME

DEFENDANT-APPELLANT

JUDGMENT:
AFFIRMED

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-15-599884-A

BEFORE: Jones, J., Kilbane, P.J., and E.T. Gallagher, J.

RELEASED AND JOURNALIZED: March 9, 2017

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LARRY A. JONES, SR., J.:

{¶1} Defendant-appellant Shawna Thome appeals from the trial court's judgment sentencing her to consecutive terms of imprisonment. For the reasons that follow, we affirm.

Procedural History

{¶2} In October 2015, Thome was charged with ten crimes alleged to have occurred on July 17, 2015, July 18, 2015, September 13, 2015, and September 28, 2015. The charges resulted from the robberies of five businesses, and consisted of aggravated robbery and robbery counts. All the counts contained notices of prior conviction and repeat violent offender specifications. Four of the counts additionally contained one- and three-year firearm specifications.

{¶3} Thome was referred to the court's psychiatric clinic for evaluation as to her competency to stand trial. After the clinic concluded that she was competent, Thome pleaded guilty to an amended count of robbery for each of the five businesses. The amendment to the counts deleted the firearm and repeat violent offender specifications; the notices of prior conviction remained, however. The remaining counts, notices, and specifications were nolle. After a presentence investigation report was prepared, the trial court sentenced Thome to three years on each of the five counts, to be served consecutively, for a total 15-year sentence.

Factual History

{¶4} Thome committed the first robbery on July 17, 2015, at a Sunoco gas station.

She told the cashier that she had a gun and that she did not want to shoot it, but would if he did not give her money. Thome kept her hands tucked in her waistband and acted like she had a gun. The cashier believed that she had a gun and would shoot him. Thome robbed the gas station of approximately \$750.

{¶5} The second robbery occurred the following day, July 18, and occurred at a Walmart store. For this robbery, Thome handed a cashier a note that said Thome would shoot the cashier if she did not give her the money in her cash register. The cashier believed Thome had a gun and would shoot her, so she gave Thome the money, totaling approximately \$7,000.

{¶6} Thome committed the third robbery on September 13, 2015, robbing a Payless shoe store. Thome pointed what a cashier believed to be a real gun, demanded that the cashier give her all the money from her cash register, and threatened to shoot the cashier if she did not comply. The cashier was in fear for her life and gave Thome the money, which totaled approximately \$124.

{¶7} A few hours later on September 13, Thome committed the fourth robbery, which was of a Marc's store. For this robbery, Thome showed a clerk what appeared to be a gun that was in a bag and demanded money, while threatening to shoot her if she did not comply. Thome further told the cashier that if she told anyone about the robbery, Thome would "kill everyone with the gun." Thome robbed the Marc's store of approximately \$2,500.

{¶8} Thome committed the final robbery on September 28, 2015, at a Walgreens store. She told the cashier that she was going to “blow him away” if he did not empty the cash register. He complied, and Thome robbed the store of approximately \$295. Thus, Thome robbed the stores of over \$11,000. The police recovered a pellet gun from Thome’s house during its investigation of the case.

Assignment of Error

{¶9} Thome’s sole assignment of error challenges the trial court’s imposition of consecutive sentences and reads: “The trial court erred by imposing consecutive sentences that were not justified given the case’s facts and by failing to make supportive findings as required by law.”

Law and Analysis

{¶10} Consecutive sentences may be imposed only if the trial court makes the required findings pursuant to R.C. 2929.14(C)(4). *State v. Bonnell*, 140 Ohio St.3d 209, 2014-Ohio-3177, 16 N.E.3d 659, ¶ 20-22. Under the statute, consecutive sentences may be imposed if the trial court finds that (1) consecutive sentences are necessary to protect the public from future crime or to punish the offender, and (2) consecutive sentences are not disproportionate to the seriousness of the offender’s conduct and to the danger the offender poses to the public. In addition, the court must find that any one of the following applies:

- (1) the offender committed one or more of the multiple offenses while awaiting trial or sentencing, while under a sanction, or while under

postrelease control for a prior offense;

(2) at least two of the multiple offenses were committed as part of one or more courses of the conduct, and the harm caused by two or more of the offenses was so great or unusual that no single prison term for any of the offenses committed as part of any of the courses of conduct adequately reflects the seriousness of the offender's conduct; or

(3) the offender's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the offender.

R.C. 2929.14(C)(4)(a)-(c).

{¶11} In order to impose consecutive terms of imprisonment, a trial court must both make the statutory findings mandated for consecutive sentences under R.C. 2929.14(C)(4) at the sentencing hearing and incorporate those findings into its sentencing entry. *Bonnell* at the syllabus. And although a trial court “is required to make the findings mandated by R.C. 2929.14(C)(4) at the sentencing hearing and incorporate its findings into its sentencing entry, * * * it has no obligation to state reasons to support its findings.” *Id.*

{¶12} Furthermore, the sentencing court is not required to recite “a word-for-word recitation of the language of the statute.” *Id.* at ¶ 29. “[A]s long as the reviewing court can discern that the trial court engaged in the correct analysis and can determine that the record contains evidence to support the findings, consecutive sentences should be upheld.” *Id.*

{¶13} Upon review, the trial court made the required findings in sentencing Thome to consecutive terms and the record contains evidence to support the findings. Specifically, the court found the following:

I think the harm in this case is such that consecutive [terms are] warranted and that it's necessary to protect the public from future crime or to punish Ms. Thome for her conduct in each one of these crimes. * * *

I don't think it's disproportionate to run them consecutive to each other. And I think there is a danger that's posed to the public that warrants running these cases consecutive to each other.

I think it's also clear from the conduct in this case that this is a continuing course of conduct and these are multiple offenses and, as a result of her actions with regard to each one, that the crime is such that it is appropriate to run them consecutive to each other because of the seriousness of that particular crime, and it is unusual and should be dealt with separately rather than running them concurrent to each other. I think by doing so, it would reflect the seriousness of her crime.

And also finally, there is the component of her criminal past. I acknowledge that prior to 2011, she hadn't had this problem or she doesn't have a criminal past reported to me, but from 2011 forward, which I think coincides with when she started using drugs, she was unable to handle herself without involving herself with criminal activity. And * * * being sentenced in the fall of 2012, she was involved with the burglary, felony of the second degree, and * * * the Court provided her an opportunity to seek [treatment for] the mental health issues and avoid further problems, and that just did not work out.

So for all those reasons, I think it's appropriate to run these consecutive to each other.

{¶14} This record demonstrates that the trial court made all of the required findings under R.C. 2929.14(C)(4) for the imposition of consecutive sentences. Additionally, the findings were incorporated into the sentencing judgment entry, as required under *Bonnell*, 140 Ohio St.3d 209, 2014-Ohio- 3177, 16 N.E.3d 659, at the

syllabus.

{¶15} We are not persuaded by Thome’s contention that she does not pose a danger to the public because the pellet gun was not a “real” gun. In each incident, she threatened the victim with use of a gun, and each victim believed that Thome had a gun and would use it. The threat was used to accomplish the robberies and, therefore, that the gun was a pellet gun was irrelevant. *See State v. Brooks*, 2d Dist. Montgomery No. 21531, 2007-Ohio-1029, ¶ 41.

{¶16} Moreover, not only did the trial court comply with R.C. 2929.14(C)(4) and *Bonnell* in sentencing Thome to consecutive terms, but we also note that where there are multiple victims, the imposition of consecutive sentences is reasonable to hold the defendant accountable for crimes committed against each victim. *See, e.g., State v. Sexton*, 10th Dist. Franklin No. 01AP-398, 2002-Ohio-3617, ¶ 67. Representation for each of the victims factored into the trial court’s decision here to impose consecutive sentences, with the court stating, “One of the issues in this case is we have five events within a reasonably short period of time, almost all exactly the same, with the same response with each one of the victims, and it is not appropriate, in my view, to diminish the harm to each victim * * *.”

{¶17} In light of the above, Thome’s sole assignment of error is overruled.

{¶18} Judgment affirmed.

It is ordered that appellee recover of 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

MARY EILEEN KILBANE, P.J., and
EILEEN T. GALLAGHER, J., CONCUR