

[Cite as *State v. Wynn*, 2001-Ohio-1408]

STATE OF OHIO)	IN THE COURT OF APPEALS
)ss:	NINTH JUDICIAL DISTRICT
COUNTY OF LORAIN)	

STATE OF OHIO	C.A. No.	01CA007778
Appellee		
v.		
TAYLOR WYNN	APPEAL FROM JUDGMENT	
Appellant	ENTERED IN THE	
	COURT OF COMMON PLEAS	
	COUNTY OF LORAIN, OHIO	
	CASE No.	99CR054778

DECISION AND JOURNAL ENTRY

Dated: October 3, 2001

This cause was heard upon the record in the trial court. Each error assigned has been reviewed and the following disposition is made:

CARR, Judge.

The appellant, Taylor Wynn, appeals the sentence of the Lorain County Court of Common Pleas. This Court affirms.

I.

Wynn was charged with attempted murder, aggravated robbery, aggravated burglary, felonious assault, and burglary. Wynn pled guilty to each of the five counts as charged.

The court sentenced Wynn to nine years for attempted murder, to run consecutively with three years for aggravated robbery. Counts three and four

(aggravated burglary and felonious assault respectively) were merged as allied offenses of similar import. Wynn was sentenced to six months for burglary, concurrent to his aggregate twelve year sentence.

Wynn has now appealed, alleging one assignment of error.

II.

ASSIGNMENT OF ERROR

The trial court erred when it sentenced appellant to serve the consecutive sentences of nine years on the offense of attempted murder and three years on the offense of aggravated robbery, without making the requisite three tiered analysis on the record as mandated by R.C. 2929.19(B).

Under R.C. 2929.14(E)(4)(b) and (c), a court is empowered to impose consecutive prison terms if such terms are necessary to protect the public from future crime or to punish the offender, the terms are not disproportionate to the seriousness of the offense and the danger posed to the public, and the harm caused by the multiple offenses was so great that no single prison term would adequately reflect the seriousness of the crime, and/or the offender's criminal history manifests a need to protect the public from future crime. Each of these findings was expressly set forth in the journal entry of sentence. This satisfies the trial court's duty pursuant to R.C. 2929.14(E)(4). See *State v. Riggs* (Oct. 11, 2000), Summit App. No. 19846, unreported. Accordingly, Wynn's assignment of error is overruled.

Judgment affirmed.

The Court finds that there were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Lorain, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(E).

Costs taxed to Appellant.

Exceptions.

DONNA J. CARR
FOR THE COURT

BAIRD, J.
CONCURS

WHITMORE, J.
DISSENTS, SAYING:

Because the trial court did not make the R.C. 2929.14(E)(4) findings at the sentencing hearing, I respectfully disagree with the majority's conclusion that the trial court satisfied its duty by inserting the requisite findings in the journal entry

of sentence. I have consistently held that such findings must be made on the record at *the sentencing hearing*. See *State v. Riggs* (Oct. 11, 2000), Summit App. No. 19846, unreported, at 7-9 (Whitmore, J., concurring in part, dissenting in part). Moreover, in *Woods v. Telb* (2000), 89 Ohio St.3d 504, paragraph two of the syllabus, the Supreme Court of Ohio mandated that a trial court “inform the defendant *at sentencing or at the time of a plea hearing* that post-release control is part of the defendant’s sentence,” thus reinforcing my dissent in *Riggs* that the findings and reasons, when required, be placed on the record at the sentencing hearing. (Emphasis added.) See, also, *State v. Williams* (2000), 136 Ohio App.3d 570, 572 (interpreting *Edmonson* as requiring the trial court to make the findings and give its reasons for imposing a maximum term of imprisonment on the record at the sentencing hearing and not merely in the judgment entry); *State v. Martin* (1999), 136 Ohio App.3d 355, 362-363.

Accordingly, I would sustain Appellant’s assigned error and remand this case to the trial court with an order to set forth its findings at the sentencing hearing when imposing consecutive sentences.

APPEARANCES:

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GREGORY A. WHITE, Prosecuting Attorney, and ROBERT F. CORTS, Assistant Prosecuting Attorney, 226 Middle Avenue, 4th Floor, Elyria, Ohio 44035, for Appellee.