

[Cite as *State v. Taylor*, 2010-Ohio-4276.]

IN THE COURT OF APPEALS OF MONTGOMERY COUNTY, OHIO

STATE OF OHIO :  
 Plaintiff-Appellee : C.A. CASE NO. 23833  
 vs. : T.C. CASE NOS. 09CR2550  
 : 09CR4059  
 TANEHA A. TAYLOR (aka) : (Criminal Appeal from  
 TANEHA WRIGHT : Common Pleas Court)  
 Defendant-Appellant :

. . . . .

O P I N I O N

Rendered on the 10th day of September, 2010.

. . . . .

Mathias H. Heck, Jr., Pros. Attorney; Carley J. Ingram, Asst. Pros. Attorney, Atty. Reg. No. 0020084, P.O. Box 972, Dayton, OH 45422  
Attorneys for Plaintiff-Appellee

Mark A. Fisher, Atty. Reg. No. 0066939, 5613 Brandt Pike, Huber Heights, OH 45424  
Attorney for Defendant-Appellant

. . . . .

GRADY, J.:

{¶ 1} Defendant, Taneha Taylor, entered pleas of guilty in Montgomery County Common Pleas Court Case No. 09CR2550 to one count of forgery, R.C. 2913.31(A)(3), and one count of theft, R.C. 2913.02(A)(3), both felonies of the fifth degree. In exchange,

the State dismissed another forgery charge. In Case No. 09CR4059, Defendant entered pleas of guilty to seven counts of identity fraud, R.C. 2913.49(B)(2), and three counts of theft, R.C. 2913.02(A)(3), all felonies of the fifth degree. The trial court sentenced Defendant to one year on each count, with the sentences in each case to be served concurrently to each other but consecutively to the sentences imposed in the other case number, for a total sentence of two years, which the parties had agreed as part of the plea bargain would be the cap or maximum aggregate sentence for all of the cases. The court also ordered Defendant to pay restitution as follows: DP&L, \$2,824.67; Vectren, \$1,419.02; Time Warner Cable, \$1,793.94; and Cincinnati Bell, \$688.40.

{¶2} Defendant timely appealed to this court from her conviction and sentence. Defendant's appellate counsel filed an *Anders* brief, *Anders v. California* (1967), 386 U.S. 738, 87 S.Ct. 1396, 19 L.Ed.2d 493, stating that he could find no meritorious issues for appellate review. We notified Defendant of her appellate counsel's representations and afforded her ample time to file a pro se brief. None has been received. This case is now before us for our independent review of the record. *Penon v. Ohio* (1988), 488 U.S. 75, 109 S.Ct. 346, 102 L.Ed.2d 300.

{¶3} Defendant's appellate counsel has identified one possible issue for appeal, complaining of the severity of

Defendant's two-year sentence of incarceration.

{¶ 4} In *State v. Jeffrey Barker*, Montgomery App. No. 22779, 2009-Ohio-3511, at ¶36-38, we wrote:

{¶ 5} "The trial court has full discretion to impose any sentence within the authorized statutory range, and the court is not required to make any findings or give its reasons for imposing maximum, consecutive, or more than minimum sentences. *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470, at paragraph 7 of the syllabus. Nevertheless, in exercising its discretion the trial court must consider the statutory policies that apply to every felony offense, including those set out in R.C. 2929.11 and 2929.12. *State v. Mathis*, 109 Ohio St.3d 54, 2006-Ohio-855, 846 N.E.2d 1, at ¶ 37.

{¶ 6} "When reviewing felony sentences, an appellate court must first determine whether the sentencing court complied with all applicable rules and statutes in imposing the sentence, including R.C. 2929.11 and 2929.12, in order to find whether the sentence is contrary to law. *State v. Kalish*, 120 Ohio St.3d 23, 2008-Ohio-4912, 896 N.E.2d 124. If the sentence is not clearly and convincingly contrary to law, the trial court's decision in imposing the term of imprisonment must be reviewed under an abuse of discretion standard. *Id.*

{¶ 7} "The term "abuse of discretion" connotes more than an

error of law or judgment; it implies that the trial court's attitude is unreasonable, arbitrary, or unconscionable.' *State v. Adams* (1980), 62 Ohio St.2d 151, 157[, 16 O.O.3d 169], 404 N.E.2d 144."

{¶ 8} The trial court considered the presentence investigation report, the purposes and principles of felony sentencing, R.C. 2929.11, the seriousness and recidivism factors, R.C. 2929.12, and the statements by the parties at sentencing. The court also informed Defendant about post-release control requirements. The trial court complied with all applicable rules and statutes in imposing its sentence. Furthermore, although the one-year prison term imposed on each charge is the maximum allowable sentence for a felony of the fifth degree, R.C. 2929.14(A)(5), it is nevertheless within the authorized range of available punishments. Defendant's sentence is not clearly and convincingly contrary to law. *Kalish*.

{¶ 9} Since 1999, Defendant has an ongoing history of criminal convictions for theft offenses of various types. R.C. 2929.12(D)(2). Defendant previously had a failed attempt at community control, R.C. 2929.12(D)(3), and Defendant previously served a prison term. R.C. 2929.13(B)(1)(g). The record justifies the sentence the trial court imposed. No abuse of discretion on the part of the trial court has been demonstrated.

{¶ 10} In any event, as part of the plea bargain in this case the parties agreed upon and jointly recommended a two-year cap

or maximum aggregate sentence for all of the cases, and the trial court followed the parties' joint recommendation in imposing its sentence. Under those circumstances, Defendant's sentence is not reviewable on appeal. R.C. 2953.08(D)(1). This assignment of error lacks arguable merit.

{¶ 11} In addition to reviewing the possible issues for appeal raised by Defendant's appellate counsel, we have conducted an independent review of the trial court's proceedings and have found no error having arguable merit. Accordingly, the judgment of the trial court will be affirmed.

BROGAN, J. And FROELICH, J., concur.

Copies mailed to:

Carley J. Ingram, Esq.  
Mark A. Fisher, Esq.  
Taneha A. Taylor  
Hon. Gregory F. Singer