

**IN THE COURT OF APPEALS OF OHIO
THIRD APPELLATE DISTRICT
LOGAN COUNTY**

STATE OF OHIO,

CASE NO. 8-26-03

PLAINTIFF-APPELLEE,

v.

SHAWN P. COBBLE, JR.,

**OPINION AND
JUDGMENT ENTRY**

DEFENDANT-APPELLANT.

**Appeal from Logan County Common Pleas Court
General Division
Trial Court No. CR 22 12 0291**

Judgment Affirmed in Part, Reversed in Part and Cause Remanded

Date of Decision: October 5, 2026

APPEARANCES:

William T. Cramer for Appellant

Eric C. Stewart for Appellee

WILLAMOWSKI, J.

{¶1} Defendant-appellant Shawn Cobble (“Cobble”) brings this appeal from the judgment of the Logan County Common Pleas Court, General Division ordering him to serve a prison term of 36 months. On appeal, Cobble claims that the sentence imposed in the judgment entry does not match that imposed at the sentencing hearing and that the trial court abused its discretion by terminating his community control and imposing a prison term. For the reasons set forth below, the judgment is affirmed in part and reversed in part.

{¶2} On February 26, 2024, Cobble was found guilty of one count of failure to comply with an order or signal of a police officer in violation of R.C. 2921.331(B), (C)(5)(a)(i), a felony of the third degree. A sentencing hearing was held on March 27, 2024, and the trial court sentenced Cobble to three years of community control with a reserved prison term of 36 months.

{¶3} On January 20, 2026, the State filed a motion to show cause as to why his community control should not be revoked. The basis for the motion was that Cobble had violated the conditions of his community control by possessing drugs, threatening a person, and driving without a valid license. The trial court held a hearing on this motion on February 19, 2026, and found that Cobble had violated the terms of his community control after Cobble admitted to violating them. The trial court then terminated the community control and sentenced Cobble to 30

months in prison. However, the trial court subsequently filed a judgment entry stating that Cobble had been sentenced to 36 months in prison. Cobble appealed from this judgment and on appeal raises the following assignments of error.

First Assignment of Error

Appellant's right to be present during the proceedings under the state and federal constitutions and Crim.R. 43 was violated when the trial court imposed a greater prison term in the sentencing entry than it did during the sentencing hearing.

Second Assignment of Error

The trial court abused its discretion by terminating community control and imposing a prison term.

{¶4} In his first assignment of error, Cobble claims that the trial court erred by imposing a greater prison sentence in its judgment entry than was imposed at the sentencing hearing. In Ohio, a criminal defendant has the right to be present at every stage of criminal proceedings, including the imposition of sentence and any modification of a sentence. Crim.R. 43(A)(1). “Because the defendant’s presence is required when the court imposes sentence, the trial court errs when its judgment entry of sentence differs from the sentence that it announced at the sentencing hearing in the defendant’s presence.” *State v. Kovach*, 2009-Ohio- 2892, ¶ 28 (7th Dist.). “[I]f the sentence set forth in the judgment entry differs from that pronounced in the defendant’s presence, the judgment entry is invalid.” *State v. Elson*, 2014-Ohio-2498, ¶ 56 (10th Dist.).

{¶5} A review of the record in this case shows that at the sentencing hearing, the trial court orally imposed a prison sentence of 30 months and in its judgment entry imposed a prison sentence of 36 months. Clearly these sentences do not match. As a result, the trial court's judgment is contrary to law and the matter must be remanded for resentencing. *State v. Robinson*, 2012-Ohio-6068 (6th Dist.). The exception to this is if the trial court determines that the sentence stated in the judgment entry was a clerical error, the trial court may correct this error by a nunc pro tunc entry to reflect what was stated at the sentencing hearing. *Id.* The first assignment of error is sustained.

{¶6} Cobble claims in his second assignment of error that the trial court erred by terminating his community control. This Court notes that after a finding of violations of the terms of community control, the determination whether to terminate community control is left within the sound discretion of the trial court. *State v. Espinoza*, 2022-Ohio-1807 (3d Dist.). After finding a violation of community control sanctions is present, the sentencing court may 1) extend the length of community control up to five years; 2) impose more restricting terms of community control; or 3) terminate the community control and impose a previously reserved prison term subject to certain limitations for technical violations. R.C. 2929.15(B).

{¶7} Here, there is no question that Cobble violated the terms of his community control. At the hearing it was alleged that he 1) was in possession of

illegal substances and drug paraphernalia, 2) that he had made death threats against his probation officer, and 3) that he had operated a motor vehicle without a license. Cobble admitted to each of these violations. In reaching its decision to terminate the community control, the trial court made the following findings.

The original offense involved Mr. Cobble driving in the middle of the roadway at times that reached speeds of 87 miles per hour. Reported that other motorists were operating their vehicles in the area and that his Durango went off the roadway and into the yard and slid sideways into a bean field, then went back around the house and through the front yard at a high rate of speed coming within feet of the homeowner. That is very dangerous driving to say the least. And Mr. Cobble doesn't seem to have improved in that area based on what the probation violations are.

With respect to the recidivism factors set forth in [R.C. 2929.12(D)], I find there is a prior history of criminal convictions, failure to respond favorable to past sanctions, demonstrated pattern of drug and alcohol abuse related to the offense, refusal to acknowledge that pattern, successfully complete treatment. Also, an oppositional defiance to supervision by the probation officer, including extremely troubling statements that have been made for whatever reason you may have made them. The Court is left with great concern when statements of that nature, death threats and whatnot, are made against people who are doing their jobs and are out there to keep our community safe and, quite frankly, help people like yourself, Mr. Cobble.

Based on all of this and considering the purposes and principles of sentencing as set forth in [R.C. 2929.11 and R.C. 2929.12], the Court hereby revokes your probation, Mr. Cobble, and sentences you to a nonmandatory prison term of 30 months at ODRC.

Tr. 9-10. The findings of the trial court are supported by the record. Thus, we do not find that the trial court abused its discretion in terminating the community control of Cobble. The second assignment of error is overruled.

{¶8} The judgment of the Logan County Common Pleas Court, General Division, is affirmed in part, reversed in part and cause remanded.

*Affirmed in Part,
Reversed in Part
and Cause Remanded*

ZIMMERMAN, P.J. and WALDICK, J., concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this Court, it is the judgment and order of this Court that the judgment of the trial court is affirmed in part and reversed in part with costs assessed equally between Appellant and Appellee for which judgment is hereby rendered. The cause is hereby remanded to the trial court for further proceedings and for execution of the judgment for costs.

It is further ordered that the Clerk of this Court certify a copy of this Court's judgment entry and opinion to the trial court as the mandate prescribed by App.R. 27; and serve a copy of this Court's judgment entry and opinion on each party to the proceedings and note the date of service in the docket. *See* App.R. 30.

John R. Willamowski, Judge

William R. Zimmerman, Judge

Juergen A. Waldick, Judge

DATED:
/hls