

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
ROSS COUNTY

STATE OF OHIO,	:	
	:	Case No. 23CA13
Plaintiff-Appellee,	:	
	:	
v.	:	<u>DECISION AND JUDGMENT</u>
	:	<u>ENTRY</u>
MICHAELA C. BARRETT,	:	
	:	
Defendant-Appellant.	:	RELEASED: 06/17/2025

APPEARANCES:

Stephen P. Hardwick, Assistant State Public Defender, Office of the Ohio Public Defender, Columbus, Ohio, for appellant.

Anna Villarreal, Chillicothe City Law Director, Chillicothe, Ohio, for appellee.

Wilkin, J.

{¶1} This is an appeal from Chillicothe Municipal Court in which appellant, Michaela C. Barrett, was found guilty of assault, a first-degree misdemeanor, by a unanimous jury. The trial court imposed a ten-day jail sentence and two years of community-control sanction. Barrett in her sole assignment of error challenges the trial court's decision to impose jail time. Barrett maintains that the trial court abused its discretion because in applying the relevant sentencing statutory provisions, jail time is not warranted in this case. Barrett has no criminal history, was cooperating throughout the trial proceedings, and her conduct did not result in serious injury to the victim, S.B.

{¶2} We disagree, and find that the trial court did not abuse its discretion by sentencing Barrett to ten days in jail. Barrett has not had any communication

with her former male friend M.B. in over a year and a half. Yet, on January 29, 2023, around 8 p.m., she decided to drive from her home in Groveport to his home to talk to him. And when she arrived, Barrett continuously knocked on the door and rang the doorbell until M.B.'s live-in fiancé, S.B., answered the door. As soon as S.B. answered the door, Barrett began pushing S.B. to gain entry to their home. When S.B. pushed back and tried to close the door, Barrett placed both hands on S.B.'s throat and choked her, and then Barrett scratched S.B.'s wrist to prevent S.B. from using her smart watch to call the police. The assault did not stop until M.B. was able to intervene and push Barrett out on the porch and lock the door.

{¶3} The trial court considered the applicable sentencing statutory provisions and Barrett's aggressive conduct on the night of the assault in determining the appropriate sentence. We find no abuse of discretion in selecting jail time as an appropriate sentence. Accordingly, we overrule Barrett's assignment of error and affirm her judgment of conviction entry.

FACTS AND PROCEDURAL BACKGROUND

{¶4} M.B. is a former male friend of Barrett's. They were friends for approximately five years and that friendship was categorized as "friends with benefits." The friendship, however, was over prior to January 29, 2023, when Barrett went to M.B.'s home. M.B. had not communicated with Barrett in over a year and a half prior to her coming to his home persistently knocking on his door and ringing the doorbell at approximately 8 p.m. on January 29. M.B.'s live-in fiancé, S.B., thought there was an emergency and opened the front door without

checking to see who was knocking and ringing the bell. As soon as S.B. opened the door, Barrett began pushing S.B. out of the way and was attempting to enter the home. Barrett was calling M.B.'s name. S.B. continued to push back and block Barrett from entering, and this is when Barrett placed both her hands on S.B.'s throat and was choking her.

{¶5} M.B. was in the laundry room but came to the door after hearing a commotion. This is when he saw Barrett with both her hands on S.B.'s throat and he began separating them and pushing Barrett back to the porch to lock the door. M.B. also told S.B. to call the police and as she attempted to call 9-1-1 on her smart watch, Barrett then began scratching S.B.'s wrist to knock the watch off. At the same time, M.B. continued to push Barrett out and was eventually successful and able to close and lock the door. Barrett continued to stand on the front porch for a while but then moved to the sidewalk.

{¶6} Barrett was still on the sidewalk when law enforcement arrived. Officer Christopher Althouse was one of the responding officers. His initial contact was with Barrett. Within a minute of asking her what happened, Barrett informed him I want "[S.B.] dead. I'm just going to be straight up with you. I don't like this woman." Barrett continued to blame S.B. for why M.B. and her are no longer friends and that it has been over a year and a half since she and M.B. had any type of communication. Despite the lack of any communication with M.B., Barrett still came to his home uninvited and unannounced and tried to force her way into his home. Barrett admitted to getting physical with S.B. and was mad that S.B. was blocking her from entering and talking to M.B.

{¶7} Officer Althouse also made contact with M.B. and S.B. in which both explained their surprise to see Barrett, and how Barrett assaulted them and was attempting to enter their home. The officer took photographs of their injuries, including scratch marks on M.B.'s arm, and S.B.'s wrist.¹

{¶8} Barrett was arrested and two assault complaints were filed. Barrett pleaded not guilty to both offenses and requested a jury trial for the two, first-degree misdemeanor assault offenses. At trial, the State presented the testimony of both victims, S.B. and M.B., and Officer Althouse. During Officer Althouse's testimony, a portion of his body-camera video was played. Barrett did not present any evidence. The jury found Barrett guilty of only one of the assault charges—the one involving the victim, S.B. The jury was unable to unanimously agree on a verdict as to the assault charge involving M.B. Accordingly, the trial court declared a mistrial as to that charge and the State later filed a motion to dismiss the assault charge involving M.B. with prejudice. The trial court granted the State's motion to dismiss.

{¶9} The matter then proceeded to sentencing with the State advocating for jail time, and Barrett's counsel advocating for minimal sentence as Barrett has been cooperative throughout the court proceedings and has no criminal record. Barrett declined to address the trial court.

¹ The officer had technical difficulty transferring the photographs from the cellphone to the database. As such, the photographs were not generated for trial purposes, however, the body camera video recorded the officer taking the photographs and what was imaged on the cellphone. This video was admitted as an exhibit.

{¶10} The trial court imposed a two-year community-control sanction, ten days in jail, and ordered Barrett to pay a \$200 fine and court costs. It is from this judgment of conviction entry that Barrett appeals.

ASSIGNMENT OF ERROR

THE TRIAL COURT ABUSED ITS DISCRETION BY IMPOSING JAIL TIME ON A PERSON FOR SIMPLE ASSAULT WHEN THE INJURIES WERE MINOR, SHE HAD NO CRIMINAL HISTORY, AND SHE HAD COMPLIED WITH THE TERMS OF THE PROTECTIVE ORDER DURING THE TRIAL COURT PROCEEDINGS.

{¶11} In her sole assignment of error, Barrett maintains that the trial court's decision to impose ten days of actual jail time was an abuse of discretion. Barrett argues that the factors in the sentencing provision in R.C. 2929.22(B)(1) either do not apply or mitigate against a jail sentence. This is because she has no criminal history, complied with all court directives during the pendency of the case, the victim was an adult, and that the victim's injuries were minimal in which the victim testified to "no like actual marks." In support of her argument, Barrett distinguishes her case with other cases in which the victims suffered more serious injuries and claims in those cases, a jail-time sentence was warranted but not here.

{¶12} The State disagrees and contends that Barrett ignores that her sentence is within the sentencing range and that many factors support the jail-time sentence. The State highlights that Barrett drove for hours from her home with the intent to confront M.B., a man she has not seen in years and was simply a friend with benefits.² And then the confrontation resulted in Barrett pushing

² In her reply brief, Barrett asserts that the State's statement that she drove from Groveport, her home city, is not supported by the record of the case. However, the portion of the body camera

S.B., a woman she never met, attempting to enter the home, and “la[ying] her hands” on the victim. The State admits that the physical injury in this case was “not as significant” as set forth in other cases, but the aggravating factors still exist to support the jail time here, and asserts that physical injury is not the only factor to consider for sentencing purposes. The State concludes by maintaining that the trial court set forth the weighing of both mitigating and aggravating factors, and did not abuse its discretion in sentencing Barret to ten days in jail, which is within the sentencing range.

Law and Analysis

{¶13} We review misdemeanor sentences for an abuse of discretion. *State v. Lucas*, 2017-Ohio-7663, ¶ 5 (4th Dist.). An abuse of discretion “is more than a mere error of law or judgment; it implies that a trial court’s decision was unreasonable, arbitrary or unconscionable.” *State v. Martin*, 2017-Ohio-7556, ¶ 27, citing *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983). As it relates to misdemeanor sentencing discretion, “[a] trial court abuses its discretion when it imposes a sentence for a misdemeanor conviction without considering the sentencing factors under R.C. 2929.21 and 2929.22.” *State v. Kouame*, 2020-Ohio-3118, ¶ 103 (8th Dist.), citing *Lakewood v. Dobra*, 2018-Ohio-960, ¶ 9 (8th Dist.).

{¶14} “There is no requirement that a trial court, in sentencing on misdemeanor offenses, specifically state its reasons on the record.” *State v.*

video played during trial, included Barrett’s interaction with Officer Althouse in which Barrett informed him that she resides in Groveport and that she drove the night of the assault from her home.

Morgan, 2024-Ohio-4596, ¶ 23 (5th Dist.), citing *State v. Harpster*, 2005-Ohio-1046, ¶ 20 (5th Dist.). Further,

[w]hen the sentence is within the statutory limits and there is no affirmative showing that the trial court failed to consider the applicable statutory factors, “we presume that the trial court properly considered the criteria set forth in R.C. 2929.22 and determined that the sentence imposed is reasonably calculated to achieve the overriding purposes of misdemeanor sentencing set forth in R.C. 2929.21.” *Hittle* at ¶ 11-12[.]

State v. Platfoot, 2024-Ohio-2681, ¶ 10 (3d Dist.); see also *State v. Dahms*, 2019-Ohio-3124, ¶ 13 (6th Dist.) (“a misdemeanor sentence that falls within the permissible statutory limits is presumed to be lawful absent evidence to the contrary.”).

{¶15} In the matter at bar, Barrett was convicted of assault in violation of R.C. 2903.13(A), as a first-degree misdemeanor offense. And pursuant to R.C. 2929.24(A)(1), if the trial court elects to impose jail time, the term must be definite and cannot exceed 180 days. There is no dispute here that Barrett’s ten-day-jail-term is within the permissible sentencing range. The other applicable sentencing statutory provisions are R.C. 2929.21 and R.C. 2929.22. Pursuant to R.C. 2929.21, and, as relevant here, the purposes of misdemeanor sentencing are as follows:

(A) A court that sentences an offender for a misdemeanor or minor misdemeanor violation of any provision of the Revised Code, or of any municipal ordinance that is substantially similar to a misdemeanor or minor misdemeanor violation of a provision of the Revised Code, shall be guided by the overriding purposes of misdemeanor sentencing. The overriding purposes of misdemeanor sentencing are to protect the public from future crime by the offender and others and to punish the offender. To achieve those purposes, the sentencing court shall consider the impact of the offense upon the victim and the need for changing the offender’s behavior,

rehabilitating the offender, and making restitution to the victim of the offense, the public, or the victim and the public.

(B) A sentence imposed for a misdemeanor or minor misdemeanor violation of a Revised Code provision or for a violation of a municipal ordinance that is subject to division (A) of this section shall be reasonably calculated to achieve the two overriding purposes of misdemeanor sentencing set forth in division (A) of this section, commensurate with and not demeaning to the seriousness of the offender's conduct and its impact upon the victim, and consistent with sentences imposed for similar offenses committed by similar offenders.

R.C. 2929.21(A) and (B).

{¶16} The record demonstrates that the trial court considered protecting the public from future crimes committed by Barrett and considered the overriding purposes in calculating the appropriate sentence, in which the trial court stated: "I have gone back and forth on how much jail time that would be appropriate. I am disturbed that somebody would show up at somebody's house and would try to force their way in." Moreover, the trial court also considered R.C. 2929.22, which in relevant part provides:

(A) Unless a mandatory jail term is required to be imposed by division (G) of section 1547.99, division (B) of section 4510.14, division (G) of section 4511.19 of the Revised Code, or any other provision of the Revised Code a court that imposes a sentence under this chapter upon an offender for a misdemeanor or minor misdemeanor has discretion to determine the most effective way to achieve the purposes and principles of sentencing set forth in section 2929.21 of the Revised Code.

...
(B)(1) In determining the appropriate sentence for a misdemeanor, the court shall consider all of the following factors:

- (a) The nature and circumstances of the offense or offenses;
- (b) Whether the circumstances regarding the offender and the offense or offenses indicate that the offender has a history of persistent criminal activity and that the offender's character and condition reveal a substantial risk that the offender will commit another offense;

(c) Whether the circumstances regarding the offender and the offense or offenses indicate that the offender's history, character, and condition reveal a substantial risk that the offender will be a danger to others and that the offender's conduct has been characterized by a pattern of repetitive, compulsive, or aggressive behavior with heedless indifference to the consequences;

(d) Whether the victim's youth, age, disability, or other factor made the victim particularly vulnerable to the offense or made the impact of the offense more serious;

(e) Whether the offender is likely to commit future crimes in general, in addition to the circumstances described in divisions (B)(1)(b) and (c) of this section;

(f) Whether the offender has an emotional, mental, or physical condition that is traceable to the offender's service in the armed forces of the United States and that was a contributing factor in the offender's commission of the offense or offenses;

(g) The offender's military service record.

...

(3) In determining the appropriate sentence for a misdemeanor, in addition to complying with division (B)(1) of this section, the court may consider any other factors that are relevant to achieving the purposes and principles of sentencing set forth in section 2929.21 of the Revised Code.

R.C. 2929.22(A), (B)(1), and (B)(3).

{¶17} Contrary to Barret's assertions, there is no language in R.C.

2929.22(B)(1) requiring that the victim must suffer serious injury in order for a trial court to have the discretion to impose a jail term. The only limitation language we find is in R.C. 2929.22(C), which states that "[a] court may impose the longest jail term authorized under section 2929.24 of the Revised Code only upon offenders who commit the worst forms of the offense[.]" Barrett's 10-day-jail sentence is not even a tenth of the longest jail-time sentence of 180 days that the trial court could have imposed.

{¶18} Barrett is correct that several of the factors in R.C. 2929.22(B)(1) do

not apply, such as being in the military or having a criminal record, and that the victim was an adult and not particularly vulnerable. See R.C. 2929.22(B)(1)(b), (d), (f), and (g). And the trial court acknowledged Barrett's lack of criminal history: "So, in light of that and taking into consideration limited criminal history, you are sentenced ten days in the Ross County Law Enforcement Complex."

{¶19} But three of the factors apply and demonstrate the trial court acted reasonably in imposing a jail-term sentence: nature of the offense and Barrett's aggressive behavior. See R.C. 2929.22(B)(1)(a), (c), and (e).

{¶20} By Barrett's own admission to Officer Althouse, she has not had any communication with M.B. in over a year and a half. Yet, on the night of January 29, she decided to drive from her home in Groveport to M.B.'s home in Chillicothe. And when she arrived, she continuously knocked on the door and rang the bell to the point S.B. thought there was an emergency and opened the door. Barrett instantly tried to push her way into the house to speak with M.B. and disregarded any consequence to her action. She not only disregarded the consequences, but she took intentional steps to harm S.B. by placing both hands on her throat and choking her. Even after M.B. attempted to separate them and told S.B. to call the police, Barrett continued her intentional conduct of harming S.B. by scratching S.B.'s wrist when trying to pull off the smart watch to prevent S.B. from contacting the police. Moreover, minutes after M.B. and S.B. were able to close and lock their door, Barrett continued to stand on the sidewalk and was there when law enforcement arrived. And even then, she told Officer Althouse she wanted S.B. dead.

{¶21} S.B. testified that as a result of Barrett’s physical assault, including choking her with both hands, she had a small scratch on her wrist, and the next day she had bruising and was very sore for a few days later. These injuries demonstrate the physical harm element to the assault offense, and “[t]he slightest injury is sufficient proof of physical harm.” *State v. Daniels*, 2018-Ohio-1701, ¶ 35 (1st Dist.); see also *State v. Gerdes*, 2019-Ohio-913, ¶ 17 (12th Dist.) (“Martin testified that he felt sore the day after the incident, which we find is indicative of an injury, regardless of its gravity.”).

{¶22} We reiterate that “R.C. 2929.21 and 2929.22 are not, however, fact-finding statutes. Accordingly, a trial court need not make factual findings on the record regarding its consideration of the factors set forth in the statutes.” *Kouame*, 2020-Ohio-3118, ¶ 103 (8th Dist.), citing *Maple Hts. v. Sweeny*, 2005-Ohio-2820, ¶ 8 (8th Dist.).

{¶23} We find that the trial court did not abuse its discretion in imposing a jail-time sentence of ten days as the sentence is within the sentencing range of a first-degree misdemeanor assault offense and the trial court considered the applicable sentencing provisions, R.C. 2929.21 and R.C. 2929.22. Therefore, we affirm the trial court’s decision and overrule Barrett’s assignment of error.

CONCLUSION

{¶24} Having overruled Barrett’s assignment of error, we affirm the trial court’s judgment entry of conviction.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the JUDGMENT IS AFFIRMED and appellant shall pay the costs.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Chillicothe Municipal Court to carry this judgment into execution.

IF A STAY OF EXECUTION OF SENTENCE AND RELEASE UPON BAIL HAS BEEN PREVIOUSLY GRANTED BY THE TRIAL COURT OR THIS COURT, it is temporarily continued for a period not to exceed 60 days upon the bail previously posted. The purpose of a continued stay is to allow Appellant to file with the Supreme Court of Ohio an application for a stay during the pendency of proceedings in that court. If a stay is continued by this entry, it will terminate at the earlier of the expiration of the 60-day period, or the failure of the Appellant to file a notice of appeal with the Supreme Court of Ohio in the 45-day appeal period pursuant to Rule II, Sec. 2 of the Rules of Practice of the Supreme Court of Ohio. Additionally, if the Supreme Court of Ohio dismisses the appeal prior to expiration of 60 days, the stay will terminate as of the date of such dismissal.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

Abele, J. and Hess, J.: Concur in Judgment and Opinion.

For the Court,

BY: _____
Kristy S. Wilkin, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.