

[Cite as *State v. Oliver*, 2011-Ohio-3950.]

COURT OF APPEALS
DELAWARE COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-vs-

KEVIN OLIVER, II

Defendant-Appellant

JUDGES:

Hon. William B. Hoffman, P.J.

Hon. Julie A. Edwards, J.

Hon. Patricia A. Delaney, J.

Case No. 11CAA020021

OPINION

CHARACTER OF PROCEEDING:

Appeal from the Delaware County Court of
Common Pleas, Case No. 09 CR I 09 0450

JUDGMENT:

Reversed and Final Judgment Entered

DATE OF JUDGMENT ENTRY:

August 8, 2011

APPEARANCES:

For Plaintiff-Appellee

For Defendant-Appellant

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Hoffman, P.J.

{¶1} Defendant-appellant Kevin Oliver, II appeals the sentence entered by the Delaware County Court of Common Pleas, following his guilty plea to six counts of burglary, two counts of attempted burglary, and one count of grand theft. Appellant was ordered to serve a total of nine and one half years in prison in addition to other penalties. The trial court included the following in its Judgment Entry of Sentence entered January 28, 2011:

{¶2} “The Court does not approve the Intensive Prison Program or Transitional Control.”

{¶3} It is from his sentencing entry Appellant prosecutes this appeal assigning as error:

{¶4} “I. DEFENDANT’S STATE AND FEDERAL RIGHTS TO DUE PROCESS WERE VIOLATED WHEN THE TRIAL COURT DISAPPROVED TRANSITIONAL CONTROL UNDER R.C. 2967.26 AT SENTENCE.”¹

{¶5} This Court has previously addressed this exact issue in *State v. Spears*, 2011-Ohio-1538. Upon review we adhere to our prior precedent.

{¶6} Appellant’s sole assignment of error is sustained.

¹ A rendition of the facts is unnecessary for our disposition of this appeal.

paragraph on page three thereof, which reads, "The Court does not approve the Intensive Prison Program or Transitional Control" is ordered stricken therefrom.

s/ William B. Hoffman
HON. WILLIAM B. HOFFMAN

s/ Julie A. Edwards
HON. JULIE A. EDWARDS

s/ Patricia A. Delaney
HON. PATRICIA A. DELANEY