

COURT OF APPEALS
DELAWARE COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO,	:	JUDGES:
	:	Hon. Andrew J. King, P.J.
Plaintiff - Appellee	:	Hon. Robert G. Montgomery, J.
	:	Hon. Kevin W. Popham, J.
-vs-	:	
	:	
ERIC L. SMITH,	:	Case No. 2025 CAA 01 0010
	:	
Defendant - Appellant	:	<u>O P I N I O N</u>

CHARACTER OF PROCEEDING:	Appeal from the Delaware County Court of Common Pleas, Case No. 15 CRI 04 0144C
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JUDGMENT:	Affirmed
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DATE OF JUDGMENT:	June 27, 2025
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APPEARANCES:

For Plaintiff-Appellee

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For Defendant-Appellant

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Montgomery, J.

STATEMENT OF THE FACTS AND THE CASE

{¶1} Appellant was indicted on several charges on April 3, 2015, in the Delaware County Court of Common Pleas. A jury trial was held on July 28, 2015. The jury found Appellant guilty on the charges of Aggravated Burglary (F1), Kidnapping (F1), two counts of Aggravated Robbery (F1), two counts of Having Weapons Under Disability (F3) and Felonious Assault (F2). *Judgment Entry*, July 31, 2015.

{¶2} A sentencing hearing was held on September 14, 2015. By judgment entry filed September 16, 2015, the trial court sentenced Appellant to an aggregate term of forty years in prison, with nine years attributable to the aggravated robbery conviction and three years attributable to the firearm specification that accompanied the aggravated robbery charge. Appellant filed an appeal and this court affirmed his convictions and sentence. *State v. Smith*, 2016-Ohio-7566 (5th Dist.).

{¶3} On October 27, 2023, Appellant filed a Motion to Correct Judgment Entry Pursuant to Crim.R. 36. The trial court filed a Judgment Entry Denying the Defendant's October 27, 2023 Motion to Correct the Judgment on October 28, 2023. Appellant appealed the trial court's decision. This Court affirmed the trial court's decision. *State v. Smith*, 2023-Ohio-1429 (5th Dist.).

{¶4} Appellant filed a Motion to Correct Judgment Entry Pursuant to Criminal Rule 36 with the trial court on March 14, 2024. The trial court denied Appellant's motion by Judgment Entry filed on March 15, 2024.

{¶5} Appellant filed a Motion to Resolve the Complicity to Aggravated Robbery Conviction with the trial court on December 30, 2024.

{¶6} The trial court denied Appellant's Motion to Resolve the Complicity to Aggravated Robbery Conviction by Judgment Entry filed on January 2, 2025.

{¶7} Appellant has filed a timely appeal to the trial court's decision and asserts the following assignment of error:

{¶8} "I. THE TRIAL COURT ERRED AND ABUSED ITS DISCRETION WHEN IT FAILED TO RESOLVE THE ISSUE OF COMPLICITY TO AGGRAVATED ROBBERY."

{¶9} Appellant's motion contends that the "trial court failed to rendered [sic] any sentence on the Complicity to Aggravated Robbery conviction." *Motion to Resolve the Complicity to Aggravated Robbery Conviction*, p. 2.

{¶10} Appellant's brief states, "At the September 14, 2015, hearing the trial court addressed aggravated robbery for count six, but failed to resolve complicity to aggravated robbery as it pertained to count six pursuant to verdict form 21." *Appellant Brief*, p. 6.

{¶11} The trial court issued a Judgment Entry on Sentence on September 16, 2015. The entry states, "It was ORDERED and ADJUDGED by the Court that the Defendant, Eric L. Smith, as to the crime of Aggravated Robbery, as set forth in Count Six of the Indictment, the same being a violation of Section 2911.01(A)(1) of the Ohio Revised Code, and being a Felony of the First Degree, be imprisoned and confined at the Correctional Reception Center at Orient, Ohio, for a stated prison term of nine years, to be served concurrent to the sentence imposed on Count One and consecutive to the sentence imposed on Count Two." *Judgment Entry on Sentence*, p. 4.

{¶12} The judgment entry further states, "It was further ORDERED and ADJUDGED by the Court that the Defendant, Eric L. Smith, as to the Firearm Specification set forth at the end of the body of Count Six of the indictment, the Firearm Specification being defined in Section 2941.145(A) of the Ohio Revised Code, be

imprisoned and confined at the Correctional Reception Center at Orient, Ohio for a mandatory stated prison term of three years to be served consecutive to the sentence imposed on Count Six.” *Entry*, p. 4.

{¶13} The trial court separately sentenced Appellant on the charge of Aggravated Robbery (count six) and the firearm specification set forth at the end of the body of count six. The verdict form signed by the jury and filed with the trial court on July 31, 2015, states: “Further Finding on Firearm Specification as to Count Six. (Leave this page blank if you find the Defendant Not guilty of Complicity to Aggravated Robbery).” The jury form uses the terms “firearm specification” and “complicity to aggravated robbery” on the same form.

{¶14} In the Judgment Entry Denying the Defendant’s December 30, 2024, Motion for a Modified Sentencing Entry, the trial judge stated, “I see no sentencing-entry error that must be corrected. Though the defendant’s latest motion suggests otherwise, I did impose a sentence on the aggravated robbery charge in Count Six. Nothing about that charge or the sentence on it remains unresolved now.”

{¶15} Upon review, we do not find that the trial court’s decision to deny Appellant’s Motion to Resolve the Complicity to Aggravated Robbery Conviction was unreasonable, arbitrary nor unconscionable.

{¶16} The sole assignment of error is denied.

CONCLUSION

{¶17} The judgment of the Court of Common Pleas of Delaware County, Ohio filed on January 2, 2025, is hereby affirmed.

By: Montgomery, J.

King, P.J. and

Popham, J. concur.