

[Cite as *State v. Cantrell*, 2009-Ohio-3011.]

IN THE COURT OF APPEALS OF MONTGOMERY COUNTY, OHIO

STATE OF OHIO	:	
Plaintiff-Appellee	:	C.A. CASE NO. 22916
vs.	:	T.C. CASE NO. 08CR1938
RICHARD CANTRELL	:	(Criminal Appeal from Common Pleas Court)
Defendant-Appellant	:	

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O P I N I O N

Rendered on the 19th day of June, 2009.

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GRADY, J.:

{¶ 1} As part of a plea agreement, Defendant Richard Cantrell entered pleas of guilty to three offenses he committed against his five year old son, J.C.: Endangering Children in violation of R.C. 2919.22(B)(3), a felony of the third degree, Domestic Violence in violation of R.C.

2919.25(A), a felony of the fourth degree, and Intimidation of a Crime Victim in violation of R.C. 2921.04(A), a misdemeanor of the first degree. In exchange, the State agreed to a three-year cap on Defendant's sentence. The trial court sentenced Defendant to concurrent prison terms of one year for child endangering, twelve months for domestic violence, and one hundred eighty days for intimidation of a crime victim.

{¶2} Defendant timely appealed to this court from his conviction and sentence. Defendant's appellate counsel filed a brief pursuant to *Anders v. California* (1967), 386 U.S. 738, 87 S.Ct. 1396, 19 L.Ed.2d 493, stating that she could find no meritorious issues for appellate review. We notified Defendant of his appellate counsel's representations and afforded him 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 identified two possible issues for appeal.

{¶4} 1. DID THE TRIAL COURT COMPLY WITH THE REQUIREMENTS OF CRIMINAL RULE 11 IN ACCEPTING THE APPELLANT'S PLEA OF GUILTY TO ONE (1) COUNT OF CHILD ENDANGERING IN VIOLATION OF SECTION 2919.22(B)(3) OF THE OHIO REVISED CODE, A FELONY OF

THE THIRD DEGREE, ONE (1) COUNT OF DOMESTIC VIOLENCE IN VIOLATION OF SECTION 2919.25(A) OF THE OHIO REVISED CODE, A FELONY OF THE FOURTH DEGREE, AND ONE (1) COUNT OF INTIMIDATION OF A CRIME WITNESS, A MISDEMEANOR OF THE FIRST DEGREE, IN VIOLATION OF SECTION 2921.04(A) OF THE OHIO REVISED CODE?

{¶ 5} Crim.R. 11(C) provides in relevant part:

{¶ 6} (2) In felony cases the court may refuse to accept a plea of guilty or a plea of no contest, and shall not accept a plea of guilty or no contest without first addressing the defendant personally and doing all of the following:

{¶ 7} "(a) Determining that the defendant is making the plea voluntarily, with understanding of the nature of the charges and of the maximum penalty involved, and if applicable, that the defendant is not eligible for probation or for the imposition of community control sanctions at the sentencing hearing.

{¶ 8} "(b) Informing the defendant of and determining that the defendant understands the effect of the plea of guilty or no contest, and that the court, upon acceptance of the plea, may proceed with judgment and sentence.

{¶ 9} "(c) Informing the defendant and determining that the defendant understands that by the plea the defendant is waiving the rights to jury trial, to confront witnesses

against him or her, to have compulsory process for obtaining witnesses in the defendant's favor, and to require the state to prove the defendant's guilt beyond a reasonable doubt at a trial at which the defendant cannot be compelled to testify against himself or herself."

{¶ 10} Defendant's appellate counsel concedes in her brief that the trial court fully complied with Crim.R. 11(C)(2) in accepting Defendant's guilty pleas. After examining the record of the plea hearing, we agree. Defendant's pleas were made knowingly, intelligently and voluntarily. *State v. Engle*, 74 Ohio St.3d 525, 1996-Ohio-179. This proposed assignment of error lacks arguable merit.

{¶ 11} 2. DID THE TRIAL COURT ERR IN SENTENCING THE DEFENDANT TO ONE (1) YEAR IMPRISONMENT BASED ON HIS CONVICTIONS OF CHILD ENDANGERING, A FELONY OF THE THIRD DEGREE, DOMESTIC VIOLENCE, A FELONY OF THE FOURTH DEGREE, AND INTIMIDATION OF A CRIME WITNESS AS OUTLINED ABOVE?

{¶ 12} Per *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, 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. *Id.*, at paragraph seven of the syllabus. In exercising its

discretion, however, the trial court must comply with all rules and statutes that apply to every case, including R.C. 2929.11 and 2929.12. *State v. Mathis*, 109 Ohio St.3d 54, 2006-Ohio-855, at ¶37.

{¶ 13} Defendant does not argue that his sentence is clearly and convincingly contrary to law because the trial court failed to comply with all applicable rules and statutes in imposing its sentence. Rather, Defendant suggests that the trial court abused its discretion in imposing a one year prison term on him.

{¶ 14} The overriding purposes of felony sentencing are to protect the public from future crime by the offender, and to punish the offender. R.C. 2929.11(A). Defendant's crimes were committed against his own five year old son. Defendant has a lengthy criminal history, including a prior felony conviction. The trial court's sentences are within the authorized range of available punishments for third and fourth degree felonies and first degree misdemeanors, R.C. 2929.14(A)(3), (A)(4); 2929.24(A)(1), and are under the three year cap agreed to by the parties as part of the plea bargain.

We see no abuse of discretion in the trial court's one year prison sentence. This assignment of error lacks arguable merit.

{¶ 15} 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, Defendant's appeal is without merit and the judgment of the trial court will be affirmed.

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

Copies mailed to:

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