

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

State of Ohio

Court of Appeals No. L-12-1195

Appellee

Trial Court No. CR0201001173

v.

Shane Slusarski

DECISION AND JUDGMENT

Appellant

Decided: August 2, 2013

* * * * *

Julia R. Bates, Lucas County Prosecuting Attorney, and
David F. Cooper, Assistant Prosecuting Attorney, for appellee.

Tim A. Dugan, for appellant.

* * * * *

SINGER, P.J.

{¶ 1} Appellant, Shane Slusarski, appeals from a decision of the Lucas County Court of Common Pleas sentencing him to 18 months in prison for a community control violation. For the reasons that follow, we affirm.

{¶ 2} On August 16, 2010, appellant entered a no contest plea to one count of operating a vehicle while under the influence of alcohol, a violation of R.C. 4511.19(A)(1)(a) and (G)(1)(d), and a felony of the fourth degree. He was found guilty. On September 30, 2010, he was sentenced to serve 30 months in prison. The court suspended 18 months of the sentence. Following his 12 month prison stay, he was ordered to serve a five month community control sentence. Among the conditions of his community control sanction, appellant was order to serve six months in the Lucas County Correctional Treatment Facility. His failure to complete the community control sanction would result in the imposition of the 18 month prison sentence that was stayed.

{¶ 3} When appellant failed to report to the facility following his 12 month prison stay, a warrant was issued for his arrest. On June 15, 2012, appellant was found in violation of his community control and the court sentenced him to 18 months in prison. Appellant now appeals setting forth the following assignment of error:

The trial court erred by sentencing appellant to a prison term for a violation of community control where the trial court no longer had the jurisdiction to do so.

{¶ 4} Appellant contends that the trial court lacked jurisdiction to sentence appellant to 18 months after he had already served 12 months of his 30 month sentence. Appellant contends that after he served 12 months, the court was without jurisdiction to impose additional time. He argues that this amounts to a “hybrid sentence” and that the

court had no authority to impose such a sentence. Appellant is essentially arguing that he is being sentenced twice for the same offense. We disagree.

{¶ 5} As this court stated in *State v. Hensley*, 6th Dist. Lucas No. L-07-1253, 2008-Ohio-2486, ¶ 12, “[A]prison term imposed on an offender after the court has revoked community control sanctions is a separate sentence reflecting a different violation.”

{¶ 6} In this case, the court notified appellant at his original sentencing that he could be subject to an 18 month prison term if he violated the conditions of his community control sanction. After finding that appellant violated the conditions of his community control by failing to report, the court imposed the previously suspended 18 month prison term. As this sentence involved a separate offense, we find that the trial court retained jurisdiction to sentence appellant accordingly. Appellant’s sole assignment of error is found not well-taken.

{¶ 7} On consideration whereof, the judgment of the Lucas County Court of Common Pleas is affirmed. Appellant is ordered to pay the costs of this appeal pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Mark L. Pietrykowski, J.

JUDGE

Arlene Singer, P.J.

JUDGE

Stephen A. Yarbrough, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
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