

[Cite as *State v. Hicks*, 2004-Ohio-6113.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 84418

| | | |
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| STATE OF OHIO, | : | |
| | : | |
| Plaintiff-Appellee | : | JOURNAL ENTRY |
| | : | |
| v. | : | AND |
| | : | |
| OTIS HICKS, | : | OPINION |
| | : | |
| Defendant-Appellant | : | |
| | : | |

DATE OF ANNOUNCEMENT
OF DECISION: NOVEMBER 18, 2004

CHARACTER OF PROCEEDING: Criminal Appeal from
Common Pleas Court,
Case No. CR-444828.

JUDGMENT: DISMISSED.

DATE OF JOURNALIZATION:

APPEARANCES:

| | |
|--------------------------|---|
| For Plaintiff-Appellee: | William D. Mason Cuyahoga County Prosecutor Edward J. Corrigan, Assistant Kelley J. Barnett, Assistant 8 th Floor Justice Center 1200 Ontario Street Cleveland, OH 44113 |
| For Defendant-Appellant: | Wesley A. Dumas, Sr. Wesley A. Dumas, Sr., & Assoc. 815 Superior Avenue, N.E., Suite 612 Cleveland, OH 44114 |

JAMES D. SWEENEY, J.:

{¶ 1} Defendant-appellant, Otis Hicks, appeals his convictions for carrying a concealed weapon and tampering with evidence. We dismiss this appeal, however, for lack of a final order.

{¶ 2} The record reveals that a three-count indictment was returned against appellant, charging him with (1) carrying a concealed weapon, in violation of R.C. 2923.12; (2) tampering with evidence, in violation of R.C. 2921.12; and (3) possession of criminal tools, in violation of R.C. 2923.24. Appellant waived his right to a jury trial and the case proceeded to trial by the bench.

{¶ 3} The trial court eventually found appellant guilty of carrying a concealed weapon and tampering with evidence, but not guilty of the possession-of-criminal-tools charge. In its journal entry¹ sentencing appellant, the court reiterated its earlier judgment of conviction for both of the aforementioned offenses. Continuing, the journal entry provides:

{¶ 4} "The court finds that a community control sanction will adequately protect the public and will not demean the seriousness of the offense. It is therefore ordered that [appellant] is sentenced to 4 years of community control, under the supervision of the Adult Probation Department with the following condition(s): [Appellant] to abide by the rules and regulations of the Probation

¹Although the transcript of the sentencing hearing may shed some light on what actually transpired at the hearing, it is not included in the transcript of the proceedings in the record before us. Notwithstanding its omission, a sentence pronounced at hearing that is not journalized is not a final order. See App.R. 4(B); see, e.g., *State ex rel. White v. Junkin* (1997), 80 Ohio St.3d 335.

Department. [Appellant] to perform 200 hours of court community work service at the minimum rate of 40 hours/month; enter and complete carrying concealed weapon program; [appellant] forbidden to own or possess a gun."

{¶ 5} The court thereafter informed appellant of the consequences of violating the terms of probation and ordered him to pay costs. The order does not state, however, which conviction is subject to community control sanctions nor does it impose sentence for the remaining conviction.

{¶ 6} Crim.R. 32(C) imposes a mandatory duty upon the trial court to set forth the plea, the verdict or findings, and the sentence for each and every criminal charge prosecuted. See *State v. Brown* (1989), 59 Ohio App.3d 1, 2. A trial court's order that fails to impose sentence for an offense for which the offender was found guilty not only violates this rule, but renders the resultant order non-final and not immediately reviewable. See *State v. Collins* (Oct. 18, 2001), Cuyahoga App. No. 79064, 2001 Ohio App. Lexis 4666.

{¶ 7} Accordingly, this appeal is dismissed.

This appeal is dismissed.

It is, therefore, ordered that appellee recover from appellant costs herein taxed.

It is ordered that a special mandate be sent to the Cuyahoga County Common Pleas Court directing said court to carry this judgment into execution.

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

JAMES D. SWEENEY*
JUDGE

FRANK D. CELEBREZZE, JR., P.J., AND

SEAN C. GALLAGHER, J., CONCUR

(*Sitting by Assignment: Judge James D. Sweeney, Retired, of the Eighth District Court of Appeals.)

N.B. This entry is an announcement of the court's decision. See App.R. 22(B), 22(D) and 26(A); Loc.App.R. 22. This decision will be journalized and will become the judgment and order of the court pursuant to App.R. 22(E) unless a motion for reconsideration with supporting brief, per App.R. 26(A), is filed within ten (10) days of the announcement of the court's decision. The time period for review by the Supreme Court of Ohio shall begin to run upon the journalization of this court's announcement of decision by the clerk per App.R. 22(E). See, also, S.Ct.Prac.R. II, Section 2(A)(1).