IN THE COURT OF APPEALS

TWELFTH APPELLATE DISTRICT OF OHIO

BROWN COUNTY

STATE OF OHIO,	:	
Plaintiff-Appellee,	:	CASE NO. CA2009-05-018
	:	O P I N I O N
- vs -		12/30/2009
	:	
MARCIA FIELDS,	:	
Defendant-Appellant.	:	

APPEAL FROM BROWN COUNTY MUNICIPAL COURT
Case No. CRB0800097

Jessica Little, Brown County Prosecuting Attorney, 200 East Cherry Street, Georgetown, Ohio 45121, for plaintiff-appellee

Marcia Fields, 5683 Centerpoint Road, Georgetown, Ohio 45121, defendant-appellant, pro se

HENDRICKSON, J.

{¶1} Defendant-appellant, Marcia Fields, appeals pro se her convictions and sentences in the Brown County Municipal Court for criminal trespass and criminal mischief. For the reasons discussed below, we affirm the judgment of the trial court.

{¶2} This case originates from an apparent property boundary line dispute between neighbors. On January 25, 2008, Steven Ayers initiated a criminal complaint against

appellant alleging that she had removed the boundary line markers and "no trespassing" signs on Ayers' property located on Centerpoint Road in Georgetown. According to Ayers, appellant placed the signs in his driveway and made verbal threats against him.

{¶3} Appellant was subsequently arrested and charged with one count each of criminal trespass in violation of R.C. 2911.21(A)(1),[1] a fourth-degree misdemeanor, and criminal mischief in violation of R.C. 2909.07(A)(1),[2] a misdemeanor of the third degree. Following a bench trial on February 23, 2009, appellant was convicted of both counts and sentenced to consecutive jail terms of 30 days for her criminal trespass conviction and 60 days for her criminal mischief conviction. Appellant's sentences were suspended, and she was placed on community control for two years.

{¶4} Appellant appeals her convictions and sentences, raising the following sole assignment of error:

{¶5} "THE TRIAL COURT ERRED BY NOT ADDRESSING BLATANT CONSTITUTIONAL DUE PROCESS ERRORS AND VIOLATIONS TO THE DEFENDANT[']S GUARANTEED CONSTITUTIONAL RIGHTS – THE CASE SHOULD HAVE BEEN DISMISSED AND CHARGES DROPPED AGAINST THE DEFENDANT-APPELLANT. IN GOING FORWARD WITH THE TRIAL, [THE] TRIAL COURT INITIATED A CHALLENGE TO THE CONSTITUTIONAL AND THE RIGHTS OF 'WE THE PEOPLE [sic].'"

{¶6} At the outset, we note that in support of her assignment of error, appellant presents a series of convoluted arguments challenging the propriety of her convictions. Many of appellant's arguments are not grounded in any applicable legal authority, and appear to be merely doctrinal recitations of various legal principles.

1. R.C. 2911.21(A)(1) provides that "[n]o person, without privilege to do so, shall * * * [k]nowingly enter or remain on the land or premises of another[.]"

2. R.C. 2909.07(A)(1) provides that "[n]o person shall [w]ithout privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with the property of another[.]"

{¶7} Although appellant is appearing pro se in this appeal, she is nevertheless bound by the same rules and procedures as members of the bar. See *Cravens v. Cravens,* Warren App. No. CA2008-02-033, 2009-Ohio-1733 at fn.1. Pro se litigants are "not to be accorded greater rights and are bound to accept the results of their own mistakes and errors, including those related to correct legal procedures." Id., quoting *Cat-The Rental Store v. Sparto,* Clinton App. No. CA2001-08-024, 2002-Ohio-614, at 5. The burden of affirmatively demonstrating error on appeal and substantiating one's arguments in support thereof falls upon the appellant. *State v. Hairston,* Lorain App. No. 05CA008768, 2006-Ohio-4925, ¶11. See, also, App.R. 16(A)(7). Moreover, it is not an appellate court's duty to "root out" arguments that can support an assignment of error. See *Hausser & Taylor, LLP v. Accelerated Systems Integration, Inc.*, Cuyahoga App. No. 84748, 2005-Ohio-1017, ¶10. Accordingly, in reviewing appellant's arguments on appeal, this court will not "conjure up questions never squarely asked or construct full-blown claims from convoluted reasoning." *Aegis v. Sedlacko*, Mahoning App. No. 07 MA 128, 2008-Ohio-3190, ¶16, quoting *Karmasu v. Tate* (1992), 83 Ohio App.3d 199, 206.

{¶8} Appellant appears to initially contest the sufficiency of the evidence produced at trial, and argues generally that she was prejudiced by "numerous" constitutional violations relating to her arrest and prosecution. However, we do not reach the merits of the arguments advanced by appellant, as a transcript of the trial proceedings is not included in the record on appeal. "Upon appeal of an adverse judgment, it is the duty of the appellant to ensure that the record, or whatever portions thereof are necessary for the determination of the appeal, are filed with the court in which he seeks review." *Rose Chevrolet, Inc. v. Adams* (1988), 36 Ohio St.3d 17, 19. On the docketing statement submitted in connection with her notice of appeal, appellant indicated that a transcript of the proceedings was not required. Absent a transcript, we must therefore presume the regularity and validity of the trial court's

proceedings and affirm its judgment. See *Knapp v. Edwards Laboratories* (1980), 61 Ohio St.2d 197, 199.

{¶9} Appellant also contends that the trial court erred in failing to make specific statutory findings in its decision to impose consecutive misdemeanor sentences. We find this contention without merit.

{¶10} As this court has previously determined, a trial court enjoys broad discretion in imposing a misdemeanor sentence. *State v. Hause*, Warren App. No. CA2008-05-063, 2009-Ohio-548, ¶24. As a result, a trial court's sentence on a misdemeanor violation will not be reversed on appeal absent an abuse of discretion. Id. at ¶23, citing R.C. 2929.22. An abuse of discretion is more than an error of law or judgment; it implies that the court's attitude is unreasonable, arbitrary or unconscionable. *State v. Jackson*, 107 Ohio St.3d 53, 2005-Ohio-5981, ¶181.

{¶11} Unless a mandatory jail term is required by statute, a trial court is permitted to determine the most effective way to achieve the purposes of misdemeanor sentencing set forth in R.C. 2929.21(A). The overriding purposes of sentencing are to punish the offender and to protect the public from future crime by the offender. R.C. 2929.21(A). In fashioning an appropriate sentence, the trial court must consider a number of factors, including "the nature and circumstances of the offenses, whether the circumstances regarding the offender and the offenses indicate the offender's history or character reveal a substantial risk to others, or whether the conduct has been characterized by behavior with heedless indifference to the consequences, whether the victim's age or other factor made the impact of the offense more serious, whether the offender is likely to commit future crimes in general, or any other factor relevant to achieving the purposes and principles of sentencing." *Hause* at ¶24, citing R.C. 2929.22(B)(1) and (2). The trial court is not required to state on the record its consideration of the above factors when the sentence imposed is within the statutory

guidelines. Id. at ¶25. In the case of a silent record, "'the presumption exists that the trial court considered the statutory criteria absent an affirmative showing by [d]efendant that it did not.'" *State v. Hughley*, Cuyahoga App. Nos. 92588, 93070, 2009-Ohio-5824, ¶16, quoting *State v. Raby*, Wayne App. No. 05CA0034, 2006-Ohio-1314, ¶9.

{¶12} Although a transcript of the March 19, 2009 sentencing hearing is absent from the record, upon review of the trial court's judgment entry, we find no indication that the court abused its discretion in sentencing appellant, and she has failed to demonstrate otherwise. The sentences imposed are within the statutory limits for each offense. In addition, the entry indicates that the court reviewed appellant's presentence investigation report, and heard arguments from both parties prior to making its sentencing determination. See *Hughley* at ¶17.

{¶13} Based on the foregoing, appellant's assignment of error is overruled.

{¶14} Judgment affirmed.

YOUNG, P.J., and RINGLAND, J., concur.