

[Cite as *State v. Sinkfield*, 2018-Ohio-2939.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 106491

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

MAURICE SINKFIELD

DEFENDANT-APPELLANT

JUDGMENT:
AFFIRMED

Civil Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-12-564071-A

BEFORE: Stewart, P.J., S. Gallagher, J., and Laster Mays, J.

RELEASED AND JOURNALIZED: July 26, 2018

ATTORNEY FOR APPELLANT

Maurice J. Sinkfield, pro se
Inmate No. 633111
Lake Erie Correctional Institution
501 Thompson Road
P.O. Box 8000
Conneaut, OH 44030

ATTORNEYS FOR APPELLEE

Michael C. O'Malley
Cuyahoga County Prosecutor

Anthony Thomas Miranda
Assistant County Prosecutor
Justice Center, 8th Floor
1200 Ontario Street
Cleveland, OH 44113

MELODY J. STEWART, P.J.:

{¶1} The court granted defendant-appellant Maurice Sinkfield judicial release from his conviction for robbery on terms that required him to abide by the rules and regulations of the probation department. Eight months later, Sinkfield failed to report to his probation officer. Sinkfield did not deny that he failed to report, but claimed that he did not report because an incident with city of Euclid police officers caused him to believe that he would suffer imminent physical harm from the police. The court rejected Sinkfield’s argument, found him in violation of his probation, and reinstated the original prison sentence. The sole assignment of error contests this ruling.

{¶2} “The court, in its discretion, may revoke the judicial release if the offender violates the community control sanction described in division (R)(1) of this section.” R.C. 2929.20(R)(2). Revocation of judicial release is not a criminal proceeding, so the state need only provide “substantial proof” that the defendant has violated the terms of community control imposed as a condition of judicial release. *State v. Kocak*, 7th Dist. Mahoning No. 15 MA 0173, 2017-Ohio-945, ¶ 9. We review the court’s decision to revoke judicial release for abuse of discretion. *State v. Thompson*, 3d Dist. Crawford Nos. 3-16-01 and 3-16-12, 2016-Ohio-8401, ¶ 11.

{¶3} Sinkfield maintains that the court was aware of the treatment he allegedly received from the Euclid police “but did nothing to get to the bottom of the situation so that the defendant could report to [his probation officer] and not fear being killed by white police officers who threatend [sic] and attempted to kill or inflict bodily harm on the defendant.” He argues that his failure to report was justified under Article I, Section 1 of the Ohio Constitution which guarantees his inalienable right to “seeking and obtaining happiness and safety.”

{¶4} The language “seeking and obtaining happiness and safety” expresses natural law rights that, “in and of themselves, are of no legal force.” *State v. Williams*, 88 Ohio St.3d 513, 523, 2000-Ohio-428, 728 N.E.2d 342. The inalienable right to happiness and safety outlined in Article I, Section 1 of the Ohio Constitution is not self-executing; it is enforced by “other provisions of the Ohio Constitution, laws passed by the General Assembly, and in the mandates of the United States Constitution.” *Id.* at 524. Importantly,

the inalienable rights given to the citizens of this state in Article I of the Ohio Constitution, and the equal protection and benefit guaranteed them in that document as well as in the federal Constitution, do not render the citizens immune from the operation of the police power.

Holsman v. Thomas, 112 Ohio St. 397, 404, 147 N.E. 750 (1925). “Pursuant to its police powers, the General Assembly has the authority to enact laws defining criminal conduct and to prescribe its punishment.” *Ohio v. Thompkins*, 75 Ohio St.3d 558, 560, 1996-Ohio-264, 664 N.E.2d 926. Sinkfield’s right to “safety” is thus guaranteed by criminal statutes that forbid assault and by civil statutes that give him a right of redress for misconduct by government agents.

{¶5} By failing to invoke these statutes and instead choosing not to report to his probation officer, Sinkfield admittedly violated the terms of community control imposed as a condition of judicial release. And as the court noted on the record, even if Sinkfield had been threatened by the Euclid police as claimed, he could still report to his probation officer, who was located “nowhere near Euclid.” Tr. 54. Because Sinkfield had available to him means of reporting to his probation officer that did not require him to expose himself to the allegedly abusive Euclid police, the court did not abuse its discretion by revoking judicial release. Sinkfield’s sole assignment of error is overruled.

{¶6} Judgment affirmed.

It is ordered that appellee recover of appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas 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.

MELODY J. STEWART, PRESIDING JUDGE

SEAN C. GALLAGHER, J, and
ANITA LASTER MAYS, J., CONCUR