

[Cite as *Mansfield v. Hatfield*, 2010-Ohio-5567.]

COURT OF APPEALS
RICHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

CITY OF MANSFIELD
Plaintiff-Appellee

-vs-

JASON HATFIELD
Defendant-Appellant

JUDGES:
Hon. W. Scott Gwin, P.J.
Hon. William B. Hoffman, J.
Hon. Sheila G. Farmer, J.

Case No. 10CA48

OPINION

CHARACTER OF PROCEEDING:

Appeal from the Mansfield Municipal Court,
Case No. 2009TRD10036

JUDGMENT:

Reversed and Remanded

DATE OF JUDGMENT ENTRY:

November 15, 2010

APPEARANCES:

For Plaintiff-Appellee

For Defendant-Appellant

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Hoffman, J.

{¶1} Defendant-appellant Jason Hatfield appeals his sentence in the Mansfield Municipal Court for failure to maintain reasonable control and reckless operation. Plaintiff-appellee is the State of Ohio.

STATEMENT OF THE CASE

{¶2} On October 5, 2009, Appellant was cited for a hit-skip violation/leaving the scene of an accident, in violation of Mansfield Codified Ordinance 335.12, and failure to maintain reasonable control, in violation of Mansfield Codified Ordinance 333.08.

{¶3} On March 11, 2010, Appellant entered a plea of guilty to failure to maintain reasonable control and to an amended charge of reckless operation, in violation of Mansfield Codified Ordinance 333.02.

{¶4} On the charge of reckless operation, the trial court sentenced Appellant to thirty days in jail, which were suspended, completion of Domestic Violence Court for a period of one year, completion of the DOVE Program and completion of a drug and alcohol assessment, including treatment if necessary. The trial court further ordered Appellant pay costs in the amount of \$100.00.

{¶5} On the charge of failure to maintain reasonable control, the trial court fined Appellant \$50.00.

{¶6} Appellant now appeals his sentence on the reckless operation charge, assigning as error:

{¶7} "I. THE TRIAL COURT ERRED IN SENTENCING DEFENDANT TO DOMESTIC VIOLENCE COURT AND THE ASSOCIATED DOVE PROGRAM FOR A TRAFFIC RELATED OFFENSE."

{¶8} In the first assignment of error, Appellant maintains the trial court erred in sentencing Appellant to completion of Domestic Violence Court and the associated DOVE Program for a traffic related offense. We agree.

{¶9} In *State v. Jones* (1990) 49 Ohio St.3d 51, the Supreme Court held:

{¶10} “Pursuant to R.C. 2951.02, the trial court is granted broad discretion in setting conditions of probation. Specifically, R.C. 2951.02(C) provides that ‘ * * * [i]n the interests of doing justice, rehabilitating the offender, and insuring his good behavior, the court may impose additional requirements on the offender * * *. Compliance with the additional requirements shall also be a condition of the offender's probation or other suspension.’ The courts' discretion in imposing conditions of probation is not limitless. See *State v. Livingston* (1976), 53 Ohio App.2d 195, 196-197, 7 O.O.3d 258, 259, 372 N.E.2d 1335, 1337, citing *United States v. Strada* (D.C.Mo.1974), 393 F.Supp. 19; *People v. Dominguez* (1967), 256 Cal.App.2d 623, 64 Cal.Rptr. 290; *Williams v. State* (Tex.Crim.App.1975), 523 S.W.2d 953; see, also, *Lakewood v. Davies* (1987), 35 Ohio App.3d 107, 519 N.E.2d 860, paragraph two of the syllabus. Such conditions cannot be overly broad so as to unnecessarily impinge upon the probationer's liberty. See *State v. Maynard* (1988), 47 Ohio App.3d 76, 547 N.E.2d 409.

{¶11} “In determining whether a condition of probation is related to the ‘interests of doing justice, rehabilitating the offender, and insuring his good behavior,’ courts should consider whether the condition (1) is reasonably related to rehabilitating the offender, (2) has some relationship to the crime of which the offender was convicted, and (3) relates to conduct which is criminal or reasonably related to future criminality and serves the statutory ends of probation. See, e.g., *United States v. Tolla* (C.A.2,

1986), 781 F.2d 29, 32-33; *State v. Maynard, supra*, at paragraph two of the syllabus; *State v. Livingston, supra*; *Howland v. Florida* (Fla.App.1982), 420 So.2d 918, 919; *Rodriguez v. Florida* (Fla.App.1979), 378 So.2d 7; *Nitz v. State* (Alaska App.1987), 745 P.2d 1379.”

{¶12} In *State v. Bowser* (2010), 186 Ohio App.3d 162, the Second District addressed the issue, holding:

{¶13} “The misdemeanor sentencing statutes give courts broad discretion to fashion sentences that are appropriate to each case. See R.C. 2929.22(A). An appropriate sentence, according to the statutes, is one reasonably calculated to achieve the statutory purposes and principles of sentencing. See R.C. 2929.22(A); see also R.C. 2929.21(B). The purposes of sentencing are two-fold-to protect the public and to punish the offender. R.C. 2929.21(A). And a principle of sentencing is that sanctions should be designed with an eye to changing the offender's behavior and rehabilitating him. See R.C. 2929.21(A). So when deciding what conditions should accompany a community-control sanction, courts must consider how to achieve these purposes and principles in the unique circumstances of the particular case. See *In re D.S.* at ¶ 6 (juvenile courts must consider the statutory purposes of juvenile disposition when determining conditions under a community-control sanction).

{¶14} “From these purposes and principles, it follows that ‘[p]robationary conditions are to be related to the circumstances of the offense.’ *In re D.S.* at ¶ 16, citing *State v. Jones* (1990), 49 Ohio St.3d 51, 550 N.E.2d 469. ***But sentencing statutes, for the most part, do not prescribe a specific sentence for a particular offense. Rather, for each offense, the statutes generally give courts a range from within which to

choose a sentence appropriate to the particular circumstances of the case. The circumstances that a court considers encompass a broad range of information.”

{¶15} Here, Appellant entered a plea of guilty to traffic violations unrelated to any domestic violence incident.¹ There are no underlying facts offered to rationally relate Appellant’s sentence on the traffic offense to his probationary conditions of Domestic Violence Court and the associated DOVE Program. Appellant’s probationary conditions are not reasonably calculated to achieve the purposes and principles of the sentencing statutes for the offenses charged, neither are they reasonably related to rehabilitating Appellant with regard to future traffic violation(s).

{¶16} Appellant’s assignment of error is sustained.

By: Hoffman, J.

Gwin, P.J. and

Farmer, J. concur

s/ William B. Hoffman
HON. WILLIAM B. HOFFMAN

s/ W. Scott Gwin
W. SCOTT GWIN

s/ Sheila G. Farmer
HON. SHEILA G. FARMER

¹ Appellant relates in his brief he had previously been appropriately ordered to the Domestic Violence Court and associated DOVE program but elected to serve his jail sentence rather than participate in the program.

IN THE COURT OF APPEALS FOR RICHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

CITY OF MANSFIELD
Plaintiff-Appellee

-vs-

JASON HATFIELD
Defendant-Appellant

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JUDGMENT ENTRY

Case No. 10CA48

For the reason stated in our accompanying Opinion, the sentence of the Mansfield Municipal Court is reversed, and the matter remanded for resentencing in accordance with the law and our Opinion. Costs to Appellee.

s/ William B. Hoffman
HON. WILLIAM B. HOFFMAN

s/ W. Scott Gwin
HON. W. SCOTT GWIN

s/ Sheila G. Farmer
HON. SHEILA G. FARMER