

[Cite as *State v. Jewell*, 2012-Ohio-5033.]

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
ADAMS COUNTY

STATE OF OHIO, :
 :
 Plaintiff-Appellee, : Case No. 12CA947
 :
 vs. :
 :
 TERRY A. JEWELL, : DECISION AND JUDGMENT ENTRY
 :
 Defendant-Appellant. :

APPEARANCES:

COUNSEL FOR APPELLANT: Timothy Young, Ohio Public Defender, and Valerie Kunze,
Ohio Assistant Public Defender, 250 East Broad St, Suite
1400, Columbus, Ohio 43215

COUNSEL FOR APPELLEE: David Kelly, Adams County Prosecuting Attorney, 110 West
Main St., Room 112, West Union, Ohio 45693

CRIMINAL CASE FROM COMMON PLEAS COURT

DATE JOURNALIZED: 10-19-12

ABELE, P.J.

{¶ 1} This is an appeal from an Adams County Court judgment. Terry Jewell, defendant below and appellant herein, raises the following assignment of error for review:

ASSIGNMENT OF ERROR:

“THE TRIAL COURT ERRED WHEN IT FAILED TO ADDRESS
THE IMPOSITION OF COURT COSTS IN OPEN COURT, BUT
INCLUDED SUCH COSTS IN THE SENTENCING ENTRY.”

{¶ 2} After a bench trial, the Adams County Court found appellant guilty of assault, a first

degree misdemeanor. The court ordered appellant to serve a jail sentence, but did not impose a fine or court costs. Later that day, the court's sentencing entry ordered appellant to pay \$132 in court costs.

{¶ 3} Appellant, citing R.C. 2947.23 and State v. Joseph 125 Ohio St.3d 76, 2010-Ohio-954, asserts that because the trial court failed to notify him at the sentencing hearing that it intended to impose court costs, his sentence must be reversed in part and the matter remanded for a limited resentencing hearing.

{¶ 4} Appellee State of Ohio agrees with appellant's recitation of the proceedings and further agrees that the matter should be remanded for resentencing.

{¶ 5} Accordingly, based upon the foregoing we agree with the parties that the appellant's sentence should be reversed in part consistent with this opinion, and the matter remanded to the trial court for further consideration and resentencing.

JUDGMENT REVERSED IN PART AND CAUSE
REMANDED FOR RESENTENCING CONSISTENT
WITH THIS OPINION.

JUDGMENT ENTRY

It is ordered that the judgment be reversed in part and cause remanded for resentencing consistent with this opinion. Appellant recover of appellee the 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 Adams County Court to carry this judgment into execution.

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

Harsha, J. & McFarland, J.: Concur in Judgment & Opinion

For the Court

BY: _____

Peter B. Abele
Presiding Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.