

[Cite as *State v. Toner*, 2003-Ohio-1570.]

IN THE COURT OF APPEALS FOR GREENE COUNTY, OHIO

STATE OF OHIO :

Plaintiff-Appellee : C.A. CASE NO. 02CA60

vs. : T.C. CASE NO. 00CR404

JOHNNY EUGENE TONER : (Criminal Appeal from
Common Pleas Court)

Defendant-Appellant :

.....

OPINION

Rendered on the 28th day of March, 2003.

.....

William F. Schenck, Pros. Attorney; Robert K. Hendrix, Asst. Pros. Attorney, 61 Greene Street, Xenia, Ohio 45385, Atty. Reg. No. 0037351
Attorney for Plaintiff-Appellee

Thomas Mathewson, 987 U. S. Route 35 East, Xenia, Ohio 45385, Atty. Reg. No. 0067048
Attorney for Defendant-Appellant

.....

GRADY, J.

{¶1} Defendant, Johnny Eugene Toner, appeals from his two consecutive sentences of eleven months incarceration which the trial court imposed after and upon a finding that Toner had violated community control sanctions. Toner presents a single assignment of error, which states:

{¶2} “THE TRIAL COURT ERRED TO THE PREJUDICE OF THE APPELLANT

WHEN IT SENTENCED THE APPELLANT TO MORE THAN THE MINIMUM SENTENCE ON EACH OF THE FIFTH DEGREE FELONY AND THE FOURTH DEGREE FELONY AND ORDERED THEM TO RUN CONSECUTIVE WITHOUT JUSTIFICATION AS PROSCRIBED UNDER 2929.14.”

{¶3} The facts and issues of law which this appeal presents are identical to those in *State v. Carlton* (March 28, 2003), Greene App. No. 02CA51. For the same reasons we expressed there, we find that in Toner’s case the trial court erred when it imposed consecutive, non-minimum terms of incarceration absent the findings and that R.C. 2929.14(B) and (E)(4) require, and the reasons for the (E)(4) findings that R.C. 2924.19(B)2) requires the court to state.

{¶4} The assignment of error is sustained. The sentence the trial court imposed will be reversed and the case remanded for resentencing.

BROGAN, J. and YOUNG, J., concur.

Copies mailed to:

Robert K. Hendrix, Esq.
Thomas Mathewson, Esq.
Hon. Timothy Campbell