

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

State of Ohio

Court of Appeals No. L-08-1430

Appellee

Trial Court No. CR0200803266

v.

Kontar Dobosu

DECISION AND JUDGMENT

Appellant

Decided: May 22, 2009

* * * * *

Julia R. Bates, Lucas County Prosecuting Attorney, and
David F. Cooper, Assistant Prosecuting Attorney, for appellee.

Heather J. Fournier, for appellant.

* * * * *

WILLAMOWSKI, J.

{¶ 1} Appellant, Kontar Dobosu, appeals his conviction for failure to verify in the above-captioned case. For the reasons that follow, we affirm the judgment of the trial court.

{¶ 2} In 2001, appellant was convicted in Franklin County, Ohio, of sexual battery, a felony of the third degree. As a result, appellant became a sexually oriented Tier III offender under R.C. 2950.01, et seq., which required him periodically to verify a current residence or place of employment address.

{¶ 3} On November 30, 2005, appellant was indicted in Lucas County case No. CR05-3541 for failure to verify, a third degree felony. On February 9, 2006, appellant pleaded no contest to the lesser included offense of attempted failure to verify, a fourth degree felony, and on February 28, 2006, he was sentenced to three years of community control. On January 30, 2007, appellant admitted to a community control violation and was committed to prison for a term of 15 months.

{¶ 4} On September 14, 2006, appellant was indicted in Lucas County case No. CR06-3053 for failure to notify, a felony of the third degree. On February 6, 2007, appellant entered a no contest plea to attempted failure to notify, a felony of the fourth degree, and on February 26, 2007, he was sentenced to a term of imprisonment of 15 months to be served concurrently with the 15 month sentence in CR05-3541.

{¶ 5} In case Nos. CR05-3541 and CR06-3053, appellant was released from prison and was placed on postrelease control on April 21, 2008. On April 24, 2008, appellant signed a statement acknowledging his obligation to verify every 90 days and that his next verification date was July 25, 2008.

{¶ 6} On September 25, 2008, appellant was charged in the current case with failure to verify, a felony of the third degree, pursuant to R.C. 2950.06(F) and

2950.99(A). The violation was alleged to have occurred on or about July 25, 2008. On October 30, 2008, appellant pleaded no contest to the indictment, and on November 20, 2008, he was sentenced to a term of three years in prison for the instant offense.

Appellant, pursuant to the recommendation of the prosecutor, did not receive a term of imprisonment for his violation of postrelease control in case Nos. CR05-3541 and CR06-3053.

{¶ 7} Appellant appealed the judgment of the trial court, raising the following as his sole assignment of error:

{¶ 8} I. "APPELLANT'S PLEA OF NO CONTEST TO THE OFFENSE OF FAILURE TO VERIFY WAS NOT MADE KNOWINGLY AND WAS INDUCED BY A BREACHED PLEA AGREEMENT."

{¶ 9} In this appeal, appellant initially (and extensively) argues that the trial court erred in sentencing appellant in contravention to the state's recommendation that appellant not receive any incarceration time for his violation of postrelease control. In fact, as appellant concedes in his reply brief, the trial court did not sentence appellant to any incarceration time for violation of postrelease control. The sentence of incarceration was only for the crime of failure to verify.

{¶ 10} In his reply brief, appellant argues for the first time that "his belief at the time of sentencing was that he would be sentenced for one year; not three" and that "he would have asked for a trial had he known that the judge was going to sentence him to three years in prison." Unfortunately for appellant, nothing in the record demonstrates

any promise, or even suggestion, by the state to the effect that if appellant pleaded no contest to the charge of failure to verify he would receive a sentence of just one year in prison.

{¶ 11} Because appellant's arguments lack any factual basis, as shown by the record, appellant's assignment of error is found not well-taken. Accordingly, the judgment of the Lucas County Court of Common Pleas is affirmed. Appellant is ordered to pay the costs of this appeal pursuant to App.R. 24.

JUDGMENT AFFIRMED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4.

Peter M. Handwork, J.

JUDGE

Mark L. Pietrykowski, J.

JUDGE

John R. Willamowski, J.
CONCUR.

JUDGE

Judge John R. Willamowski, Third District Court of Appeals, sitting by assignment of the Chief Justice of the Supreme Court of Ohio.

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.