

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

State of Ohio

Court of Appeals No. WD-11-040

Appellee

Trial Court No. 11 CR 151

v.

William Griffith, III

DECISION AND JUDGMENT

Appellant

Decided: September 28, 2012

* * * * *

Tim A. Dugan, for appellant.

* * * * *

YARBROUGH, J.

I. Introduction

{¶ 1} This is an *Anders* appeal. Appellant, William Griffith, III, appeals from the judgment of the Wood County Court of Common Pleas finding him guilty of domestic violence in violation of R.C. 2919.25(A) and (D)(3), a felony of the fourth degree, and

sentencing him to three years of community control with various conditions. Because we hold that the conditions are not an abuse of discretion, we affirm.

A. Facts and Procedural Background

{¶ 2} Appellant pleaded guilty to one count of domestic violence with the specification that he has previously been convicted of domestic violence in violation of R.C. 2919.25(A) and (D)(3), a felony of the fourth degree. The trial court accepted appellant's plea, and ordered a presentence investigation report. At the sentencing hearing, the trial court imposed a three-year term of community control, which included, inter alia, the following conditions: (1) completing the SEARCH program, (2) completing the Intensive Supervision Probation Program, (3) completing an assessment and any and all recommendations for chemical dependency/substance abuse treatment, anger management/domestic violence counseling, and mental health counseling, and (4) completing the Moral Reconciliation Therapy Program.

{¶ 3} Appellant has timely appealed.

B. *Anders* Requirements

{¶ 4} Appointed counsel has filed a brief and requested leave to withdraw as counsel pursuant to *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967). Under *Anders*, if, after a conscientious examination of the case, counsel concludes the appeal to be wholly frivolous, he or she should so advise the court and request permission to withdraw. *Id.* at 744. This request must be accompanied by a brief identifying anything in the record that could arguably support the appeal. *Id.* In addition,

counsel must provide the appellant with a copy of the brief and request to withdraw, and allow the appellant sufficient time to raise any additional matters. *Id.* Once these requirements are satisfied, the appellate court is required to conduct an independent examination of the proceedings below to determine if the appeal is indeed frivolous. *Id.* If it so finds, the appellate court may grant counsel's request to withdraw, and decide the appeal without violating any constitutional requirements. *Id.*

{¶ 5} In his brief, counsel asserts one potential assignment of error:

1) The Trial Court erred by ordering terms and conditions of Community Control that were unreasonable, and went overboard in the number of programs it ordered Appellant to complete.

{¶ 6} Appellant has not filed a pro se brief in this matter.

II. Analysis

{¶ 7} Trial courts are granted broad discretion under R.C. 2929.15(A)(1) to impose conditions of community control, including those conditions the court considers appropriate. *State v. Talty*, 103 Ohio St.3d 177, 2004-Ohio-4888, 814 N.E.2d 1201, ¶ 10. Thus, we review the imposition of community control conditions under an abuse of discretion standard. *Id.* An abuse of discretion connotes that the trial court's attitude is unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219, 450 N.E.2d 1140 (1983).

{¶ 8} Although trial courts have broad discretion when imposing community control conditions, that discretion is not limitless. The conditions must reasonably relate

to the goals of “doing justice, rehabilitating the offender, and insuring good behavior.” *Talty* at ¶ 12.¹ In fashioning the sanction, the court must “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.” *Id.*, quoting *State v. Jones*, 49 Ohio St.3d 51, 53, 550 N.E.2d 469 (1990). In addition, the sanction “cannot be overly broad so as to unnecessarily impinge upon the probationer’s liberty.” *Id.* at ¶ 13, quoting *Jones* at 52.

{¶ 9} Here, appellant was convicted of domestic violence with the specification that he had also previously been convicted of domestic violence. The presentence investigation report detailed that alcohol was significantly involved in the incident, that appellant has a history of alcohol and drug use, and that appellant has anger management issues. Further, through counsel at sentencing, appellant indicated that he is willing to go through the SEARCH program, and that he is requesting alcohol treatment and mental health counseling.

{¶ 10} In light of this, we find that the conditions imposed by the trial court, which are designed to assist appellant with his mental health, substance abuse, relationship, and anger management issues, are reasonably related to the goals of community control.

Further, these conditions are not overly broad, but instead are capable of being readily

¹ “The court in *Talty* recognized that community control is the functional equivalent of probation and that the goals of probation, previously codified in R.C. 2951.02(C), were equally applicable to community control, although they were no longer explicitly stated in the Revised Code.” *State v. Westrick*, 196 Ohio App.3d 141, 2011-Ohio-1169, 962 N.E.2d 818, ¶ 15, fn. 1 (3d Dist.).

understood by a “commonsense” reading of them, such that appellant has received fair notice of what conduct is required. *See Jones*, 49 Ohio St.3d at 54-55, 550 N.E.2d 469 (condition that defendant “have no association or communication, direct or indirect, with anyone under the age of eighteen (18) years not a member of his immediate family” is not overbroad with the understanding that “the court will act reasonably at a revocation hearing, aware of the practicalities and fundamental goals of probation”). Therefore, the trial court’s imposition of these community control conditions was not an abuse of discretion.

{¶ 11} Accordingly, counsel’s proposed assignment of error is not well-taken.

III. Conclusion

{¶ 12} This court, as required under *Anders*, has undertaken our own examination of the record to determine whether any issue of arguable merit is presented for appeal. We have found none. Accordingly, we grant the motion of appellant’s counsel to withdraw.

{¶ 13} The judgment of the Wood County Court of Common Pleas is affirmed. Appellant is ordered to pay the costs of this appeal pursuant to App.R. 24. The clerk is ordered to serve all parties with notice of this decision.

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

Stephen A. Yarbrough, J.
CONCUR.

JUDGE

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