

**IN THE COURT OF APPEALS OF OHIO
THIRD APPELLATE DISTRICT
AUGLAIZE COUNTY**

STATE OF OHIO,

PLAINTIFF-APPELLEE,

CASE NO. 2-08-18

v.

CHARLES SCANLON,

OPINION

DEFENDANT-APPELLANT.

**Appeal from Auglaize County Common Pleas Court
Trial Court No. 08-CR-0083**

Judgment Affirmed

Date of Decision: May 18, 2009

APPEARANCES:

***Jon Paul Rion* for Appellant**

***R. Andrew Augsburger* for Appellee**

WILLAMOWSKI, J.

{¶1} Defendant-appellant Charles Scanlon (“Scanlon”) brings this appeal from the judgment of the Court of Common Pleas of Auglaize County imposing maximum consecutive terms as a sentence. For the reasons set forth below, the judgment is affirmed.

{¶2} On June 17, 2008, Scanlon was indicted for one count of trafficking in MDMA in an amount fifty times the bulk amount, a felony of the first degree, and one count of trafficking in MDMA, a felony of the fourth degree. Pursuant to a negotiated plea agreement, on September 9, 2008, Scanlon entered a guilty plea to one count of possession of MDMA in a bulk amount in violation of R.C. 2925.11(C)(1)(b), a third degree felony, and one count of trafficking in MDMA in violation of R.C. 2925.03(A)(1)(C)(1)(a), a felony of the fourth degree. The State recommended a sentence of four years for count one and eleven months for count two with the sentences to be served consecutively. The trial court accepted the guilty plea, found Scanlon guilty of the offenses, and ordered Scanlon to serve five years in prison on the first count and eighteen months in prison on the second count. The trial court then ordered that these maximum terms be served consecutively for an aggregate sentence of six and a half years. Scanlon appeals from this sentence and raises the following assignment of error.

The trial court committed an abuse of discretion when it imposed maximum consecutive terms, and therefore the matter should be remanded for resentencing.

{¶3} The sole assignment of error alleges that the trial court abused its discretion in imposing maximum, consecutive terms. “Trial courts have full discretion to impose a prison sentence within the statutory range and are no longer required to make findings or give their reasons for imposing maximum, consecutive, or more than the minimum sentences.” *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, ¶7 of syllabus, 845 N.E.2d 470. In order to find an abuse of discretion, this court must determine that the trial court’s decision is arbitrary, unreasonable, or unconscionable. *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 450 N.E.2d 1140.

{¶4} In this case, the guilty plea was the result of a plea agreement which reduced the first count of the indictment from a first degree felony to a third degree felony. The trial court explained to Scanlon what the potential sanctions could be and that the court was not bound by the recommendations of the State. Although the trial court did not specify the statutory factors it considered, the record indicates that the trial court did consider some of the factors as indicated in the dialogue between the trial court and Scanlon. In addition, the journal entry indicates that the trial court did consider the factors set forth in R.C. 2929.11 and 12. This is sufficient to satisfy the requirements set forth in *State v. Arnett* (2000),

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88 Ohio St.3d 208, 724 N.E.2d 793. The sentences imposed are allowed by R.C. 2929.14. In addition, the first count was a reduction from a first degree felony to a third degree felony. Despite the fact that Scanlon has no known prior criminal record¹ and was cooperating with authorities to help build cases against his suppliers, the trial court has the discretion to impose the sentence it did. This court does not find that the trial court abused its discretion. The assignment of error is overruled.

{¶5} The judgment of the Court of Common Pleas of Auglaize County is affirmed.

Judgment Affirmed

ROGERS and SHAW, J.J., concur.

/jlr

¹ The unopposed request for a PSI was denied, so the trial court did not know what Scanlon's criminal history, if any, was.