

[Cite as *State v. Hood*, 2002-Ohio-286.]

IN THE COURT OF APPEALS
TWELFTH APPELLATE DISTRICT OF OHIO
BUTLER COUNTY

STATE OF OHIO,	:	
Plaintiff-Appellee,	:	CASE NO. CA2001-03-051 (Accelerated Calendar)
- vs -	:	<u>JUDGMENT ENTRY</u> 1/28/2002
NICHOLAS A. HOOD,	:	
Defendant-Appellant.	:	

This cause is an accelerated appeal of a judgment in the Butler County Court of Common Pleas sentencing defendant-appellant, Nicholas A. Hood, to a term of imprisonment.¹

Appellant's assignment of error is overruled because there is clear and convincing evidence that the record supports the sentence imposed by the trial court. See R.C. 2953.08(G)(1). Specifically, the sentence imposed by the trial court is within the range communicated to appellant during the plea hearing. Further, appellant never moved the trial court to set aside his plea. See State v. Mulhollen (1997), 119 Ohio App.3d 560, 566, fn. 2 (noting that failure to receive a sentence in accordance with a plea agreement can be properly raised only in a motion to withdraw a guilty plea). Rather, appellant affirmatively stated

1. Pursuant to Loc.R. 6(A), we have sua sponte assigned this appeal to the accelerated calendar.

that he did not want to withdraw his plea.

On the basis of the foregoing, the judgment of the trial court is affirmed.

Pursuant to App.R. 11.1(E), this entry shall not be relied upon as authority and will not be published in any form. A certified copy of this judgment entry shall constitute the mandate pursuant to App.R. 27.

Costs to be taxed to appellant.

James E. Walsh, Presiding Judge

Stephen W. Powell, Judge

Anthony Valen, Judge