

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

STATE OF OHIO, :
 :
 Plaintiff-Appellee, : CASE NO. CA2004-09-218
 :
 - vs - : O P I N I O N
 : 5/23/2005
 :
 TAMMY ROBERTS, :
 :
 Defendant-Appellant. :

CRIMINAL APPEAL FROM BUTLER COUNTY COURT OF COMMON PLEAS
Case No. CR02-08-1237

Robin N. Piper, Butler County Prosecuting Attorney, Randi E. Froug, Government Services Center, 315 High Street, 11th Fl., Hamilton, Ohio 45011, for plaintiff-appellee

Thomas W. Kidd, 8240 Beckett Park Drive, Hamilton, Ohio 45011, for defendant-appellant

BRESSLER, J.

{¶1} Appellant, Tammy Roberts, appeals a decision of the Butler County Court of Common Pleas sentencing her to 18 months in prison after she violated her community control sanction.

{¶2} Appellant pled guilty to two counts of trafficking in cocaine in December 2002. At a sentencing hearing, the trial court found she was amenable to a community control sanction and

ordered one year of intensive supervision and four years of basic supervision. In August 2004, the court found appellant in violation of her community control sanction, and sentenced her to nine months in prison on each count, to run consecutively, for a total of 18 months in prison. Appellant now appeals this sentence, raising three assignments of error for our review.

{¶3} In her first and second assignments of error, appellant contends that the trial court failed to make the required findings to impose nonminimum and consecutive sentences. The record supports this contention, and the state concedes that the trial court failed to make the required findings on the record for imposing consecutive and non-minimum sentences. State v. Comer, 99 Ohio St.3d 463, 468, 2003-Ohio-4165. Therefore, appellant's first and second assignments of error are sustained.

{¶4} In her third assignment of error, appellant contends that the trial court erred in imposing a prison term because at the time she was sentenced to community control, the judgment entry did not reflect the specific prison term she would receive if she violated her community control sanction. However, the trial court is required to inform the defendant at the sentencing hearing of the specific prison term she will receive for a violation of community control. State v. Brooks, 103 Ohio St.3d 134, 2004-Ohio-4746, paragraph one of the syllabus. At the sentencing hearing in this case, the trial court informed appellant that she would receive 18 months in prison if she violated her community

control.

{¶5} We note that in reviewing the transcript in this case, there appears to be an error in the transcription of the trial court's statements at the sentencing hearing. Although the court reporter transcribed the court's statements as, "[t]he defendant is found to be in violation of her community control sanctions. The court will impose 18 months in the Ohio Department of Corrections ***." When read in context, it appears that the court's statements should read, "[i]f defendant is found in violation of her community control sanctions, the court will impose 18 months in the Ohio Department of Corrections," as a sentence later, the court repeats, "[y]ou get your chance, if you come back, a year and a half."

{¶6} Because the trial court properly notified appellant at the time of her sentencing hearing of the specific prison term she would receive if she violated her community control sanction, appellant's third assignment of error is overruled.

{¶7} Judgment affirmed in part and reversed in part and remanded for resentencing.

POWELL, P.J., and YOUNG, J., concur.

[Cite as *State v. Roberts*, 2005-Ohio-2500.]

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