

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

STATE OF OHIO,	:	
Plaintiff-Appellee,	:	CASE NO. CA2011-04-078
- vs -	:	<u>OPINION</u>
	:	12/12/2011
KRISTINA MARIE HENSLEY,	:	
Defendant-Appellant.	:	

CRIMINAL APPEAL FROM BUTLER COUNTY COURT OF COMMON PLEAS
Case No. CR2010-08-1347

Michael T. Gmoser, Butler County Prosecuting Attorney, Michael A. Oster, Jr., Government Services Center, 315 High Street, 11th Floor, Hamilton, Ohio 45011, for plaintiff-appellee

Charles A. Lippert, 5346 Boehm Drive, Unit B, Fairfield, Ohio 45014-7815, for defendant-appellant

RINGLAND, J.

{¶1} Defendant-appellant, Kristina Marie Hensley, appeals from the decision of the Butler County Court of Common Pleas sentencing her to serve a total of ten years in prison following her conviction for one count involuntary manslaughter and one count of failing to stop after an accident. For the reasons outlined below, we affirm.

{¶2} Appellant was indicted for murder, aggravated robbery, theft, and failure to stop after an accident, based on allegations that she robbed Jae Cho, a 31-year-old Monroe man,

before hitting him with her car and dragging him to his death. Upon entering into a plea agreement, appellant pled guilty to one count of involuntary manslaughter in violation of R.C. 2903.04(A), a first-degree felony, and one count of failure to stop after an accident in violation of R.C. 4549.02, a third-degree felony. The trial court subsequently sentenced appellant to serve four years in prison for failing to stop after the accident to run concurrent with a maximum ten-year prison term for involuntary manslaughter.

{¶3} Appellant now appeals from her sentence, raising one assignment of error for review.

{¶4} "THE TRIAL COURT ISSUED A SENTENCE CONTRARY TO LAW, TO THE PREJUDICE OF THE APPELLANT, BY IMPOSING A MAXIMUM PRISON TERM."

{¶5} In her single assignment of error, appellant argues that the trial court erred by sentencing her to the maximum ten-year prison term for involuntary manslaughter. We disagree.

{¶6} "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. Clay*, Madison App. No. CA2011-02-004, 2011-Ohio-5086, ¶8, quoting *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, ¶100. When an appellate court reviews a trial court's sentence, it must first "examine the sentencing court's compliance with all applicable rules and statutes in imposing the sentence to determine whether the sentence is clearly and convincingly contrary to law." *State v. Kalish*, 120 Ohio St.3d 23, 2008-Ohio-4912, ¶4. If the sentence is not clearly and convincingly contrary to law, then "the trial court's decision shall be reviewed under an abuse of discretion standard." *State v. Miller*, Butler App. No. CA2010-12-336, 2011-Ohio-3909, ¶10; *Kalish* at ¶17.

{¶7} Initially, appellant argues that the trial court's sentencing decision was contrary

to law because there is "no explicit reference in the transcript of the disposition as to whether the trial court considered the required statutory factors." However, while it may be true that the trial court did not make an explicit reference to either R.C. 2929.11 or R.C. 2929.12 at the sentencing hearing, the trial court made it abundantly clear in its sentencing entry that it had properly considered these necessary sentencing statutes. See *State v. Lancaster*, Butler App. No. CA2007-03-075, 2008-Ohio-1665, ¶4; *State v. Leopard*, Clark App. No. 2010-CA087, 2011-Ohio-3864, ¶44; *State v. Parson*, Auglaize App. No. 2-10-17, 2011-Ohio-168, ¶16. In fact, the trial court's sentencing entry explicitly states that it considered "the principles and purposes of sentencing under Ohio Revised Code Section 2929.11, and has balanced the seriousness and recidivism factors of Ohio Revised Code Section 2929.12." A trial court's sentencing decision is not contrary to law merely because the court failed to make an explicit reference to either R.C. 2929.11 or 2929.12 at the sentencing hearing. See *State v. Hall*, Warren App. No. CA2011-05-043, 2011-Ohio-5748, ¶7; *State v. Miller*, Clark App. No. 09-CA-28, 2010-Ohio-2138, ¶43. Appellant's first argument, therefore, is overruled.

{¶8} Appellant also argues that the trial court abused its discretion in sentencing her to the maximum ten-year prison term for involuntary manslaughter. As this court has stated previously, "[a]n abuse of discretion is more than an error of law or judgment; it implies that the court's attitude is unreasonable, arbitrary or unconscionable." *State v. Kirchoff*, Clermont App. Nos. CA2010-12-104, CA2010-12-105, 2011-Ohio-4718, ¶11; *State v. Jackson*, 107 Ohio St.3d 53, 2005-Ohio-5981, ¶181. A trial court does not abuse its discretion in rendering a sentence so long as it gives careful and substantial deliberation to the relevant statutory considerations. *State v. Barnes*, Brown App. No. CA2010-06-009, 2011-Ohio-5226, ¶107, citing *Kalish* at ¶20.

{¶9} After a thorough review of the record, we find the trial court did not abuse its discretion in sentencing appellant to serve the maximum ten-year prison term for involuntary

manslaughter. While appellant claims otherwise, the record indicates that the trial court gave careful and deliberate consideration to the relevant statutory considerations. See *State v. Humes*, Clermont App. No. CA2009-10-057, 2010-Ohio-2173, ¶20; *State v. Gray*, Clermont App. Nos. CA2010-01-006, CA2010-04-024, 2010-Ohio-4949, ¶37. This included, among other things, consideration of the seriousness of appellant's actions, which the trial court classified as "off the scale," as well as the "ghastly" and "horrible" nature of the victim's injuries leading to his death.¹ The record also indicates that the trial court considered appellant's guilty plea, the presentence investigative report, and numerous letters from the victim's friends and family prior to issuing its sentencing decision. See *State v. Barnes*, Brown App. No. CA2010-06-009, 2011-Ohio-5226, ¶107. Therefore, because there is simply nothing in the record to indicate the trial court abused its discretion by sentencing appellant to the maximum ten-year prison term, appellant's second argument is likewise overruled.

{¶10} In light of the foregoing, having found no error in the trial court's sentencing decision, appellant's sole assignment of error is overruled.

Judgment affirmed.

HENDRICKSON, P.J., and YOUNG, J., concur.

Young, J., retired, of the Twelfth Appellate District, sitting by assignment of the Chief Justice, pursuant to Section 6(C), Article IV of the Ohio Constitution.

¹ As the trial court stated, "here we have a human being not only hit but then drug, and folks, I've reviewed the autopsy language describing the injuries, and that was difficult to read, but the photographs are even more so."