

[Cite as *State v. Davis*, 2009-Ohio-2645.]

COURT OF APPEALS  
ASHLAND COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-vs-

SHAWNDA K. DAVIS

Defendant-Appellee

JUDGES:

Hon. Sheila G. Farmer, P.J.

Hon. W. Scott Gwin, J.

Hon. William B. Hoffman, J.

Case No. 08COA027

OPINION

CHARACTER OF PROCEEDING:

Appeal from the Court of Common Pleas,  
Case No. 07-CRI-098

JUDGMENT:

Affirmed

DATE OF JUDGMENT ENTRY:

June 4, 2009

APPEARANCES:

For Plaintiff-Appellee

PAUL T. LANGE  
307 Orange Street  
Ashland, OH 44805

For Defendant-Appellant

DOUGLAS A. MILHOAN  
P.O. Box 347  
Middlebranch, OH 44652

*Farmer, P.J.*

{¶1} On December 18, 2007, the Ashland County Grand Jury indicted appellant, Shawnda Davis, on one count of possession of cocaine in violation of R.C. 2925.11 and one count of possession of drug paraphernalia in violation of R.C. 2925.14. The drug paraphernalia count was subsequently dismissed.

{¶2} On June 27, 2008, appellant pled guilty to the remaining count. A sentencing hearing was held on August 4, 2008. By amended judgment entry filed August 5, 2008, the trial court sentenced appellant to one year in prison. At the time of sentencing, appellant was pregnant.

{¶3} Appellant filed an appeal and this matter is now before this court for consideration. Assignment of error is as follows:

I

{¶4} "THE IMPOSITION OF A PRISON SENTENCE IN THIS CASE IMPOSES AN UNNECESSARY BURDEN ON STATE RESOURCES."

I

{¶5} Appellant claims her sentence of one year imposes an unnecessary burden on state resources in contravention of R.C. 2929.13(A). We disagree.

{¶6} R.C. 2929.13 governs sentencing guidelines for various specific offenses and degrees of offenses. Subsection (A) states as follows in pertinent part:

{¶7} "Except as provided in division (E), (F), or (G) of this section and unless a specific sanction is required to be imposed or is precluded from being imposed pursuant to law, a court that imposes a sentence upon an offender for a felony may impose any sanction or combination of sanctions on the offender that are provided in sections

2929.14 to 2929.18 of the Revised Code. The sentence shall not impose an unnecessary burden on state or local government resources."

{¶8} As we noted in *State v. Ferenbaugh* (February 26, 2004), Ashland App. No. 03COA038, 2004-Ohio-977, "[t]he very language of the cited statute grants trial courts discretion to impose sentences. Nowhere within the statute is there any guideline for what an 'unnecessary burden' is."

{¶9} Appellant argues she "accepted responsibility for her actions by pleading guilty. The crime did not involve weapons, violence or threats. Appellant does wish to be enrolled in a drug treatment program and be able to raise her child. The Appellant ceased the use of drugs upon learning of her pregnancy and has remained abstinent." Appellant's Brief at 7. Therefore, appellant argues a one year sentence on a fifth degree felony imposes an unnecessary burden on state resources.

{¶10} The record indicates appellant has a lengthy criminal record starting as a juvenile. T. at 6. Appellant was sent to the Ohio Department of Youth Services on two occasions, and had four probation violations and a parole violation. Id. As an adult, appellant was convicted of two separate felonious assaults, an attempted escape, resisting arrest, and a forgery. T. at 6-7. She also violated the terms of her judicial release on two occasions, and was a post-release control violator. T. at 7. During one of the felonious assaults, appellant was pregnant. T. at 6-7. Based upon these facts, we find the least impact on local and state government resources in this case would be imprisonment.

{¶11} Upon review, we find no evidence to indicate the sentence in this case is an unnecessary burden on state resources.

{¶12} The sole assignment of error is denied.

{¶13} The judgment of the Court of Common Pleas of Ashland County, Ohio is hereby affirmed.

By Farmer, P.J.

Gwin, J. and

Hoffman, J. concur.

s/ SHEILA G. FARMER \_\_\_\_\_

s/ W. SCOTT GWIN \_\_\_\_\_

s/ WILLIAM B. HOFFMAN \_\_\_\_\_

JUDGES

SGF/sg 0520

