



State v. Perry

2000 | Cited 0 times | Ohio Court of Appeals | February 4, 2000

DECISION AND JUDGMENT ENTRY

Appellant, James T. Perry, complains that the Wood County Court of Common Pleas erred in sentencing him to a term of imprisonment for a misdemeanor to be served consecutively to terms of imprisonment imposed for felony convictions. According to appellant, such a sentence is in derogation or R.C. 2929.41(A).

Pursuant to 6th Dist.Loc.App.R. 12(C), we sua sponte transfer this matter to our accelerated docket and, hereby, render our decision.

R.C. 2929.41(A) clearly prohibits such a sentence. R.C. 2929.41(B) does, however, create an ambiguity with respect to this issue. In a criminal context ambiguities in sentencing statutes must be strictly construed against the state. R.C. 2901.04. Therefore, the terms of R.C. 2929.41(A) are applicable in this matter. Accordingly, appellant's single assignment of error is well-taken.

The judgment of the Wood County Court of Common Pleas is reversed. This matter is remanded to said court for resentencing. Costs assessed to appellee.

JUDGMENT REVERSED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4, amended 1/1/98.

Peter M. Handwork, J.

James R. Sherck, J.

Richard W. Knepper, P.J.

CONCUR.

