

State v. Felding

State of Ohio, Court of Common Pleas, Summit County

March 7, 2017, Decided

Case NO. CR-2016-12-4088.

Reporter

2017 Ohio Misc. LEXIS 17870 *

THE STATE OF OHIO v. CALVIN D. FELDING

Core Terms

sentencing, felony, prison term, post-release, punishment of a crime, impose sentence, mandatory term, definite term, rights, counsel's statement, guilty plea, new felony, CONSECUTIVELY, incarcerated, principles, pronounced, recidivism, purposes, violates, alcohol, factors, costs

Judges: [*1] ALISON McCARTY, Judge, Court of Common Pleas Summit County, Ohio.

Opinion by: ALISON McCARTY

Opinion

journal entry

On March 3, 2017, now comes the Assistant Prosecuting Attorney, TY GRAHAM, on behalf of the State of Ohio, the Defendant, being in Court with counsel, DAVID G. LOMBARDI, and said Defendant was fully advised of all Constitutional rights and all rights as required under Rule 11 of the Ohio Rules of Criminal Procedure. The Court has considered the record, statements of counsel, as well as the principles and purposes of sentencing under O.R.C. 2929.11, and the seriousness and recidivism factors under O.R.C. 2929.12.

Thereupon, by plea and sentencing agreement, Defendant, retracts the formerly entered plea of Not Guilty, and for plea to said Indictment, now enters a plea of GUILTY to:

- Count 1, FELONIOUS ASSAULT, Ohio Revised Code Section 2903.11(A)(2), a felony of the 2ND

degree, which occurred after July 1, 1996

- FIREARM SPECIFICATION 1 TO COUNT 1, Ohio Revised Code Section 2941.145

- Count 2, HAVING WEAPONS WHILE UNDER DISABILITY, Ohio Revised Code Section 2923.13(A)(2), a felony of the 3rd degree, which occurred after July 1, 1996

Said plea, knowingly, intelligently, and voluntarily made, with a full understanding of the consequences, was accepted by the Court, and the Court found the Defendant guilty.

IT IS HEREBY ORDERED that the REPEAT VIOLENT OFFENDER SPECIFICATION to Count 1; [*2] and Count 3, ILLEGAL POSSESSION OF FIREARM IN LIQUOR PERMIT PREMISES, be DISMISSED, upon recommendation of the Prosecutor.

The parties waived the right to a presentence investigation in this case.

Said Defendant was afforded all rights pursuant to Crim. R. 11. The Court has considered the record, statements of counsel, as well as the principles and purposes of sentencing under O.R.C. 2929.11, and the seriousness and recidivism factors under O.R.C. 2929.12.

Thereupon, the Court inquired whether the Defendant had anything to say why judgment should not be pronounced; and having nothing but what had already been said and showing no good and sufficient cause why judgment should not be pronounced:

IT IS THEREFORE ORDERED AND ADJUDGED BY THIS COURT that the Defendant be committed to the OHIO DEPARTMENT OF REHABILITATION AND CORRECTIONS for:

- Count 1 - for a definite term of 7 years, which is not a mandatory term pursuant to O.R.C.

2929.13(F), 2929.14(D)(3), or 2925.01, for punishment of the crime of FELONIOUS ASSAULT, Ohio Revised Code Section 2903.11(A)(2), a felony of the 2ND degree

- Firearm Specification - for a definite term of 3 years, which is a **mandatory** term pursuant to O.R.C. 2929.14(B)(1)(a), for punishment of the crime of FIREARM SPECIFICATION 1 TO COUNT 1, Ohio Revised Code Section 2941.145

- Count 2 - for a definite term of 3 years, which is not a [*3] mandatory term pursuant to O.R.C. 2929.13(F), 2929.14(D)(3), or 2925.01, for punishment of the crime of HAVING WEAPONS WHILE UNDER DISABILITY, Ohio Revised Code Section 2923.13(A)(2), a felony of the 3rd degree

IT IS FURTHER ORDERED that the sentence imposed in the FIREARM SPECIFICATION 1 TO COUNT 1 be served first and CONSECUTIVELY to the sentence imposed in Count 1. The sentence imposed in Count 2 shall be served concurrently, for a total of 10 years.

IT IS FURTHER ORDERED that the said Defendant pay the costs of this prosecution at a rate not to exceed \$5.00 per month while the Defendant is incarcerated, for which execution is hereby awarded; said monies to be paid to the Summit County Clerk of Courts, Courthouse, 205 S. High Street, Akron, Ohio 44308-1662. Judgment is rendered against the Defendant for said costs and fees.

As part of the sentence in this case, the Defendant **shall** be supervised on post-release control by the Adult Parole Authority for a **mandatory** period of **3 years** after being released from prison. If the Defendant violates the terms and conditions of post-release control, the Adult Parole Authority may impose a residential sanction that may include a prison term of up to nine months, and the maximum cumulative prison term for all violations [*4] shall not exceed one-half of the stated prison term. If the Defendant pleads guilty to, or is convicted of, a new felony offense while on post-release control, the sentencing court may impose a prison term for the new felony offense as well as an additional consecutive prison term for the post-release control violation of twelve months or whatever time remains on the Defendant's post-release control period, whichever is greater.

The Court finds that the Defendant is entitled to a total of 96 days jail credit served in this case.

While incarcerated, the Defendant may not ingest illegal drugs or alcohol, and shall be subject to random, observed drug and alcohol testing.

IT IS FURTHER ORDERED, pursuant to the above sentence, that the Defendant be conveyed to the appropriate intake facility of the Ohio Department of Rehabilitation and Correction.

/s/ Alison McCarty

ALISON McCARTY, Judge

Court of Common Pleas

Summit County, Ohio

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