

**COURT OF APPEALS OF OHIO, SECOND APPELLATE DISTRICT,
CHAMPAIGN COUNTY**

State v. Wooten

2020-Ohio-49 (Ohio Ct. App. 2020) · No. 2019-CA-8 · Decided January 10, 2020

SUMMARY

The Ohio Second District Court of Appeals affirmed the revocation of Zachary Lyle Wooten’s community control and his 18-month prison sentence for felony domestic violence. The court conducted an Anders review and found no non-frivolous issues concerning the violation proceedings, Wooten’s admissions, sentencing, post-release control, intensive program prison eligibility, or collection of costs and fees. The court held that the sentence was within the statutory range and supported by the record.

CASE DETAILS

COURT	Court of Appeals of Ohio, Second Appellate District, Champaign County
WRITING FOR THE COURT	Froelich, J.; Donovan, J.; Tucker, J.
JURISDICTION	Ohio
DECIDED	January 10, 2020
DOCKET	2019-CA-8
DISPOSITION	affirmed
PROCEDURAL POSTURE	Anders appeal from the revocation of community control and imposition of an eighteen-month prison sentence for felony domestic violence.
STANDARD OF REVIEW	Whether the appeal presented any non-frivolous issue was reviewed independently under Anders v. California. Revocation of community control is within the trial court's sound discretion. The legality and record support for the prison sentence were reviewed under the applicable Ohio sentencing statutes and the clear-and-convincing-evidence standard.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion; precedential within the limits of Ohio appellate authority.
PARTIES	Zachary Lyle Wooten v. State of Ohio

TOPICS

appellate procedure criminal procedure sentencing probation harmless error

PRACTICE AREAS

criminal procedure appellate procedure sentencing community control revocation

QUESTIONS PRESENTED

1. Whether any non-frivolous issue existed concerning the procedures used to revoke Wooten's community control, including probable-cause and final-hearing requirements.
2. Whether Wooten's admissions to the community-control violations were knowing, intelligent, and voluntary.
3. Whether the trial court's eighteen-month prison sentence was contrary to law or clearly and convincingly unsupported by the record.
4. Whether the trial court complied with the findings requirement for disapproving placement in an intensive program prison under R.C. 2929.19(D).
5. Whether the order directing withholding of funds from Wooten's inmate account to collect costs and fees presented a non-frivolous issue.

HOLDINGS

1. A defendant facing revocation of community control is entitled to due-process protections including a preliminary probable-cause hearing and a final revocation hearing, but Wooten presented no non-frivolous procedural claim because he received notice, appeared with counsel, agreed that probable cause existed, and subsequently admitted the violations.
2. Wooten's admissions to the six community-control violations were knowingly, intelligently, and voluntarily made.
3. The eighteen-month sentence imposed after revocation of community control was within the statutory range, was authorized by the original sentencing notice, complied with applicable statutory limitations, and was not clearly and convincingly unsupported by the record.
4. The trial court did not present a non-frivolous claim that it violated R.C. 2929.19(D) by disapproving Wooten for intensive program prison placement.
5. The trial court's order directing withholding of funds from Wooten's inmate account to collect court costs and court-appointed counsel fees presented no non-frivolous appellate issue.

KEY QUOTATIONS

“Pursuant to Anders, we must determine, “after a full examination of all the proceedings,” whether the appeal is “wholly frivolous.”” (¶ 3)

“ “[A] revocation of community control punishes the failure to comply with the terms and conditions of community control, not the specific conduct that led to the revocation.” ” (¶ 22)

“Unlike in felony plea hearings, the trial court is not required to notify a defendant at a community control revocation hearing of the maximum prison sentence that may be imposed.” (¶ 24)

FACTUAL BACKGROUND

Wooten pleaded guilty to fourth-degree-felony domestic violence arising from striking his seven-year-old son after the child missed the school bus; the State dismissed a child-endangering charge. The trial court imposed three years of community control and warned that an eighteen-month prison term would follow a violation. Wooten later absconded from supervision, failed to comply with multiple conditions, refused a drug screen, failed to complete required programming and community service, and engaged in vandalism while jailed. He admitted all six alleged violations, after which the trial court revoked community control and imposed eighteen months in prison.

PROCEDURAL HISTORY

Wooten pleaded guilty to domestic violence, and the trial court dismissed a child-endangering charge pursuant to the plea agreement. The trial court imposed three years of community control and notified Wooten that an eighteen-month prison term could be imposed if he violated its conditions. After Wooten admitted six community-control violations, the trial court revoked community control and imposed eighteen months in prison. Appellate counsel filed an Anders brief, Wooten filed no pro se brief, and the court independently reviewed the record and affirmed.

DISPOSITION

affirmed

CASES CITED

- *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967)
- *Penson v. Ohio*, 488 U.S. 75, 109 S.Ct. 346, 102 L.Ed.2d 300 (1989)
- *State v. Pullen*, 2d Dist. Montgomery No. 19232, 2002-Ohio-6788
- *State v. Marbury*, 2d Dist. Montgomery No. 19226, 2003-Ohio-3242
- *State v. Lewis*, 2d Dist. Montgomery No. 23505, 2010-Ohio-3652
- *State v. Black*, 2d Dist. Montgomery No. 24005, 2011-Ohio-1273
- *State v. Harmon*, 2d Dist. Champaign No. 2007-CA-35, 2008-Ohio-6039
- *Morrissey v. Brewer*, 408 U.S. 471, 480, 92 S.Ct. 2593, 33 L.Ed.2d 484 (1972)
- *Gagnon v. Scarpelli*, 411 U.S. 778, 93 S.Ct. 1756, 36 L.Ed.2d 656 (1973)
- *State v. Blakeman*, 2d Dist. Montgomery No. 18983, 2002 WL 857659
- *State v. Cunningham*, 2d Dist. Clark Nos. 2014-CA-99 and 2014-CA-100, 2015-Ohio-2554
- *State v. Fraley*, 105 Ohio St.3d 13, 2004-Ohio-7110, 821 N.E.2d 995
- *State v. Howard*, 190 Ohio App.3d 734, 2010-Ohio-5283, 944 N.E.2d 258 (2d Dist.)
- *State v. Peltier*, 2d Dist. Champaign No. 2018-CA-21, 2019-Ohio-569

- State v. Johnson, 2016-Ohio-5160, 69 N.E.3d 176 (2d Dist.)
- State v. Skirvin, 2d Dist. Champaign No. 2017-CA-26, 2019-Ohio-2040

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