

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-070042
	:	TRIAL NO. B-0502722
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
ZARI CAUDILL,	:	
	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Defendant-appellant Zari Caudill pleaded guilty to two counts of sexual battery. Pursuant to an agreed sentence, Caudill was placed on community control. At the sentencing hearing, the trial court informed Caudill that if he violated the conditions of his community control, the court would impose consecutive sentences of five years on each count, for an aggregate sentence of ten years' incarceration. Caudill's community control included the conditions that he was not to have unsupervised contact with minors and that he was to submit to periodic polygraph tests.

Caudill was charged with violating the conditions of his community control. At the community-control revocation hearing, Caudill stipulated that he had violated rules 2, 7, and 11 of his community control. Caudill stipulated that he had been convicted of new

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

OHIO FIRST DISTRICT COURT OF APPEALS

criminal violations, that he had traveled outside Hamilton County without permission, and that he had had unsupervised contact with minors. At the time Caudill was arrested, he had been unsupervised in a residence with three minors. Caudill pleaded no contest to the community-control-violation charges. The trial court found him guilty. The court then ordered Caudill to submit to a polygraph test prior to the imposition of sentence. Subsequently, the court imposed a sentence of four years' incarceration on each count, for an aggregate term of eight years' incarceration. Caudill has appealed.

The first assignment of error, which alleges that the trial court erred in imposing an excessive sentence, is overruled. The sentence was within the statutory limits. In imposing sentence, the trial court considered Caudill's prior convictions, his previous community-control failures, the violation of the prohibition against unsupervised contact with minors, and Caudill's inability to appreciate the seriousness of his conduct. The record fully supports the trial court's imposition of an eight-year aggregate term.

The second assignment of error, alleging that the trial court erred in considering the polygraph test results in imposing sentence, is overruled. The polygraph results were not used to prove any community-control violations. Caudill stipulated to the violations. Caudill admitted that he had had unsupervised contact with minors, the very conduct that he now complains the polygraph test was used to detect. Caudill made his admission prior to the administration of the polygraph test. Because Caudill admitted that he had had unsupervised contact with minors, any error that may have been made by the court in considering the results of the polygraph test during the sentencing hearing was harmless.

Therefore, the judgment of the trial court is affirmed.

OHIO FIRST DISTRICT COURT OF APPEALS

A certified copy of this Judgment Entry shall constitute the mandate, which shall be sent to the trial court under App. R. 27. Costs shall be taxed under App.R. 24.

SUNDERMANN, P.J., HENDON and DINKELACKER, JJ.

To the Clerk:

Enter upon the Journal of the Court on November 14, 2007
per order of the Court _____.
Presiding Judge