

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

STATE OF OHIO,	:	APPEAL NO. C-080776
	:	TRIAL NO. B-0800169
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
TERRANCE CRAWFORD,	:	
	:	
Defendant-Appellant.	:	

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

A witness saw defendant-appellant Terrance Crawford dressed in black, ducking behind cars in the parking lot of an apartment complex. The witness went into his apartment, looked out the window, and saw Crawford reach through the open window of another apartment and make grabbing movements. The witness called police, who surrounded the building. One officer climbed into the open window, went through the open front door of the apartment, and found Crawford jiggling the doorknob of another apartment in the building. Crawford claimed that he was waiting for “Jay,” but no “Jay” lived in the building. Crawford could not remember “Jay’s” last name or in which apartment “Jay” lived. The resident testified at trial that she had left her apartment door locked and that property she kept on a dresser under her window was missing. Crawford was found guilty by a jury of burglary and was sentenced to eight years’

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

incarceration. Crawford was sentenced to an additional two years for violating his post-release control for another burglary.

Crawford's first and second assignments of error, alleging that the trial court erred in denying his Crim.R. 29 motion for an acquittal and that his conviction was against the manifest weight of the evidence, are overruled. We hold that the evidence was such that reasonable minds could have reached different conclusions as to whether each material element of burglary had been proved beyond a reasonable doubt.<sup>2</sup> We also determine that the trier of fact, in resolving conflicts in the evidence, did not clearly lose its way and create such a manifest miscarriage of justice that Crawford's conviction must be reversed and a new trial ordered.<sup>3</sup>

The third assignment of error alleges that Crawford's trial counsel was ineffective for stipulating that Crawford was on postrelease control when he committed the burglary. To prevail, Crawford must show deficient performance by counsel and prejudice.<sup>4</sup> To establish prejudice, Crawford must show "that there was a reasonable probability that, but for the errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome."<sup>5</sup> There is a strong presumption that counsel's performance fell within the wide range of reasonable professional assistance.<sup>6</sup>

Crawford volunteered his postrelease-control status to the trial court. There was no question that Crawford was on postrelease control for another burglary. The record

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<sup>2</sup> See *State v. Bridgeman* (1978), 55 Ohio St.2d 261, 381 N.E.2d 184, syllabus.

<sup>3</sup> See *State v. Thompkins*, 78 Ohio St.3d 380, 1997-Ohio-52, 678 N.E.2d 541; *State v. Martin* (1983), 20 Ohio App.3d 172, 485 N.E.2d 717.

<sup>4</sup> See *State v. Adams*, 103 Ohio St.3d 508, 2004-Ohio-5845, 817 N.E.2d 29, citing *Strickland v. Washington* (1984), 466 U.S. 668, 104 N.E.2d 2052.

<sup>5</sup> See *Strickland v. Washington*, *supra*.

<sup>6</sup> See *id.*

does not demonstrate deficient performance or prejudice to Crawford. The third assignment of error is overruled.

Crawford's fourth and fifth assignments of error allege that his sentence was contrary to law because it was excessive and did not "correlate to any of the sentencing factors under R.C. 2929.11 and 2929.12." Under *State v. Foster*,<sup>7</sup> the trial court had the discretion to impose any sentence that was within the statutory range.<sup>8</sup> Crawford's sentence fell within the applicable statutory range of prison terms, and the trial court had the authority to impose it. The trial court was not required to state its analysis under R.C. 2929.11 and 2929.12 on the record.<sup>9</sup> Crawford had been to prison five times for the same type of offense. He had been on postrelease control for only five months when he committed the burglary in this case. Crawford's sentence was not contrary to law. The fourth and fifth assignments of error are overruled.

Therefore, the judgment of the trial court is affirmed.

Further, 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.

**CUNNINGHAM, P.J., DINKELACKER and WINKLER, JJ.**

RALPH WINKLER, retired, from the First Appellate District, sitting by assignment.

*To the Clerk:*

Enter upon the Journal of the Court on July 1, 2009

per order of the Court \_\_\_\_\_  
Presiding Judge

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<sup>7</sup> 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470.

<sup>8</sup> See *State v. Hart*, 1st Dist. No. C-060686, 2007-Ohio-5740, at ¶65; *State v. Jones*, 1st Dist. No. C-060512, 2007-Ohio-5458, at ¶50.

<sup>9</sup> See *State v. Foster*, supra.