

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

STATE OF OHIO,	:	APPEAL NO. C-081169
Plaintiff-Appellee,	:	TRIAL NO. B-0709561
vs.	:	<i>JUDGMENT ENTRY.</i>
ANTHONY HARDAWAY,	:	
Defendant-Appellant.	:	

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

Defendant-appellant Anthony Hardaway appeals the trial court’s judgment revoking his community control and imposing sentence. For the following reasons, we affirm.

On March 14, 2008, Hardaway was convicted of possession of cocaine² and sentenced to community control for three years. One month later, Hardaway was charged with violating the conditions of his community control. The charging document indicated that (1) on March 23, 2008, Hardaway had been charged with three new criminal offenses: robbery, burglary, and having weapons under a disability (“new criminal charges”); (2) on April 4, 2008, Hardaway had failed to

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

² R.C. 2925.11(A).

submit a urine sample; (3) on March 14, 2008, Hardaway had failed to contact the TASC agency to schedule an assessment date; and (4) on April 25, 2008,³ Hardaway had failed to appear for his TASC assessment. Hardaway entered a no-contest plea to these charges and was found guilty of violating the conditions of his community control. At sentencing, Hardaway argued that his community control should not be revoked because he had ultimately been acquitted by a jury of the new criminal charges and because he had been in jail awaiting trial on the new criminal charges when he was required to submit a urine sample and to appear for his TASC assessment.

After considering these arguments, the trial court terminated Hardaway's community control and imposed a jail term of 208 days, with credit for 208 days served. Hardaway now appeals.

In his single assignment of error, Hardaway asserts that the trial court abused its discretion in revoking Hardaway's community control when it understood that Hardaway had been incarcerated at the time he had failed to meet his scheduled requirements.

After a thorough review of the record, we conclude that the trial court properly revoked Hardaway's community control. Although it appears that Hardaway had been in jail during the time he was required to submit a urine sample and to complete his TASC assessment, he was not in jail on March 14, 2008, when he was required to contact the TASC office to schedule an assessment. Accordingly, because Hardaway had failed to complete one of his community-control requirements, the trial court did not err by revoking his community control. The

³ This date was scheduled by the probation department when Hardaway failed to report to TASC on March 14, 2008.

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single assignment of error is overruled, and the judgment of the trial court is affirmed.

Further, a certified copy of this Judgment Entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HILDEBRANDT, P.J., DINKLECKER and MALLORY, JJ.

To the Clerk:

Enter upon the Journal of the Court on October 28, 2009

per order of the Court _____.
Presiding Judge