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

STATE OF OHIO,	:	APPEAL NO. C-090430 TRIAL NO. B-0809684
Plaintiff-Appellee,	:	
vs.	:	*JUDGMENT ENTRY.*
ROBERT CAVAZOS,	:	
Defendant-Appellant.	:	

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

Following the entry of a guilty plea, defendant-appellant Robert Cavazos was convicted of trafficking in marijuana in violation of R.C. 2925.03(A)(2) and trafficking in cocaine in violation of R.C. 2925.03(A)(1). The trial court imposed the agreed sentence: an aggregate three-year prison term. Cavazos now appeals his convictions, arguing in a single assignment of error that the trial court lacked subject-matter jurisdiction to accept his guilty plea, to convict him of the trafficking charges, and to impose the agreed sentence, because he was in Texas during the times alleged in the indictment. We are unpersuaded.

While a guilty plea waives most defenses, it does not waive the defense of subject-matter jurisdiction.[2] Criminal-law jurisdiction in Ohio is very broad. Under

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

R.C. 2901.11—which is designed to permit the broadest possible jurisdiction over crimes committed in or affecting Ohio[3]—a person is subject to criminal prosecution here if "he commits an offense under the laws of this state, any element of which takes place in this state."

With respect to the charge for trafficking in marijuana, the indictment stated that at some time between February 15, 2008, and February 20, 2008, Cavazos, in Hamilton County, "knowingly prepared for shipment, shipped, transported, delivered, prepared for distribution, or distributed marijuana," knowing that it was intended for sale. The bill of particulars stated that Cavazos was "involved in the trafficking of 8964.90 grams of marijuana. [Cavazos] along with others arranged to have the marijuana shipped from a city outside of Hamilton County to Hamilton County when he knew it was going to be resold." The record also indicates that the state had possession of the marijuana that was to be sold. Based on this record, we hold that the trial court had jurisdiction to accept Cavazos's guilty plea to the charge for trafficking in marijuana.

We also hold that the court below had subject-matter jurisdiction to accept Cavazos's guilty plea to the cocaine-trafficking charge. Here, the bill of particulars indicated that, on the dates mentioned in the indictment, Cavazos offered to sell a kilogram of cocaine to an individual working in cooperation with law enforcement. An offer to sell drugs over the telephone to a person in Ohio is sufficient to establish jurisdiction here, even though the person offering to sell the drugs is out of the state.[4]

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[2] See *Ross v. Court* (1972), 30 Ohio St.2d 323, 285 N.E.2d 25; *State v. Flynt* (1975), 44 Ohio App.2d 315, 338 N.E.2d 554.
[3] *State v. Dominguez* (Jan. 29, 1999), 1st Dist. No. C-980148.
[4] See *State v. Foster* (Apr. 2, 1997), 1st Dist. No. C-960278.

Accordingly, the 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., DINKELACKER and **MALLORY, JJ.**

To the Clerk:

Enter upon the Journal of the Court on May 26, 2010

per order of the Court _____.
Presiding Judge