

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

STATE OF OHIO,	:	APPEAL NO. C-100276
Plaintiff-Appellee,	:	TRIAL NO. B-0900969(B)
vs.	:	
ANDRE COLE,	:	<i>JUDGMENT ENTRY.</i>
Defendant-Appellant.	:	

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

In July 2009, defendant-appellant Andre Cole entered a guilty plea to trafficking in marijuana, in violation of R.C. 2925.03(A)(2), a felony of the third degree. The trial court sentenced Cole to three years' community control. The court informed him, "If the defendant violates the [c]ommunity [c]ontrol sanctions or violates the law without permission of the [c]ourt or your probation supervisor, the [c]ourt may impose a term, in your case of three years with the Ohio Department of Corrections."

In June 2010, Cole pleaded guilty to violating the conditions of his community control, and the court sentenced him to three years in prison.

In a single assignment of error, Cole now argues that the trial court erred by imposing a sentence that was contrary to law. He contends that, at his July 2009

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

sentencing hearing, the court failed to notify him of the specific prison term that it would impose for a community-control violation.

Under R.C. 2919.19(B)(5), if a court imposes a community-control sanction, it is required to notify the offender that, if the community-control conditions are violated, the court “may impose a longer time under the same sanction, may impose a more restrictive sanction, or may impose a prison term on the offender and shall indicate the specific prison term that may be imposed as a sanction for the violation, as selected by the court from the range of prison terms for the offense pursuant to section 2929.14 of the Revised Code.”

In *State v. Brooks*,² the Ohio Supreme Court held that “[p]ursuant to R.C. 2929.19(B)(5) and 2929.15(B), a trial court sentencing an offender to a community control sanction must, at the time of the sentencing, notify the offender of the specific prison term that may be imposed for a violation of the conditions of the sanction, as a prerequisite to imposing a prison term on the offender for a subsequent violation.”

Cole argues that the trial court’s statement that it “may impose a term, in your case of three years with the Ohio Department of Corrections” was equivocal, thus failing to comply with the mandate of *Brooks* and of R.C. 2929.19(B)(5). We disagree. The trial court’s notification strictly complied with the statute and used “straightforward and affirmative language”³ to inform Cole of the specific three-year term he would face upon a violation. The court’s statement that it “may impose a prison term” accurately tracked the statutory language itself, i.e., “the court * * * may

² 103 Ohio St.3d 134, 2004-Ohio-4746, 814 N.E.2d 837, paragraph two of the syllabus.

³ Id. at ¶18.

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impose a prison term * * * and shall indicate the specific prison term that *may be imposed.*” (Emphasis added).

Consequently, we overrule the assignment of error and affirm the judgment of the trial court.

A certified copy of this judgment entry is 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., SUNDERMANN and DINKELACKER, JJ.

To the Clerk:

Enter upon the Journal of the Court on December 1, 2010

per order of the Court _____.

Presiding Judge