

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

|                      |   |                           |
|----------------------|---|---------------------------|
| STATE OF OHIO,       | : | APPEAL NOS. C-100531      |
|                      |   | C-100536                  |
| Plaintiff-Appellee,  | : | TRIAL NOS. 09CRB-38853(A) |
|                      |   | 09CRB-38853(B)            |
| vs.                  | : |                           |
|                      |   | <i>JUDGMENT ENTRY.</i>    |
| MARY EYL,            | : |                           |
| Defendant-Appellant. | : |                           |

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

Defendant-appellant Mary Eyl pleaded no contest to two counts of telecommunications harassment.<sup>2</sup> Based upon that plea, the trial court found Eyl guilty of the charges. She was later sentenced to 180 days in the Hamilton County Justice Center for each count, with the terms to be served consecutively. Two months after her sentencing hearing, Eyl filed a motion to withdraw her plea. The trial court conducted a hearing on the motion and thereafter denied it. Eyl now appeals

In her first assignment of error, Eyl argues that the trial court erred when it sentenced her to maximum, consecutive jail terms. We disagree. There is no indication in the record that the court failed to consider the applicable statutory sentencing factors, and the court imposed a sentence within the statutory range.<sup>3</sup>

The trial court explained, in detail, its rationale for the sentence Eyl received. The trial court noted that this was Eyl’s first contact with the justice system, but it also noted the “nature and extent” of Eyl’s conduct that led to her convictions, the

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<sup>1</sup> See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 11.1.1.

<sup>2</sup> R.C. 2917.21(A)(1).

<sup>3</sup> See *State v. Nelson*, 172 Ohio App.3d 419, 2007-Ohio-3459, 875 N.E.2d 137; R.C. 2929.28.

number of contacts and the extended period of time over which they occurred, and the number of people threatened. The court said that Eyl was a “predator” who had “no boundaries.” She was a “very frightening individual because [she was] so unpredictable. The only thing that [could] be predicted [was her] compulsiveness to continue to harass and cause mental anguish and pain to others.”

Eyl’s first assignment of error is overruled.

In her second assignment of error, Eyl claims that she was prejudiced by the failure of the trial court to inform her of her right to appeal. But Eyl’s appeal was accepted by this court. Therefore, any failure of the trial court to inform her of her right to appeal has not prejudiced her and was, for this reason, harmless.<sup>4</sup> Eyl’s second assignment of error is overruled.

In her final assignment of error, Eyl asserts that the trial court failed to substantially comply with Crim.R. 11 and, for that reason, improperly denied her motion to withdraw her plea. Other than failing to inform Eyl that her no-contest plea could not be used against her in a subsequent civil proceeding—information that would have made the plea more attractive to Eyl—the trial court properly informed Eyl of the consequences of entering a no-contest plea.<sup>5</sup>

Eyl argues that the trial court should have engaged Eyl in a colloquy similar to those conducted at felony plea hearings. A more extended colloquy is required only when a criminal defendant enters a plea to a felony or a “serious” misdemeanor—a crime punishable by incarceration in excess of 180 days.<sup>6</sup> The heightened plea-colloquy requirement does not apply to other misdemeanors.<sup>7</sup>

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<sup>4</sup> See Crim.R. 52(A); *State v. Akemon*, 173 Ohio App.3d 709, 2007-Ohio-6217, 880 N.E.2d 143, at ¶17; *State v. Perry*, 101 Ohio St.3d 118, 2004-Ohio-297, 802 N.E.2d 643, at ¶15.

<sup>5</sup> See Crim.R. 11(B)(2); *State v. Anderson*, 1st Dist. No. C-070098, 2007-Ohio-6218, at ¶12 (such information, rather than dissuading a defendant from pleading, is an incentive to enter a no-contest plea).

<sup>6</sup> See Crim.R. 11(C) and (D); Crim.R. 2(C).

<sup>7</sup> See *State v. Watkins*, 99 Ohio St.3d 12, 2003-Ohio-2419, 788 N.E.2d 635, at ¶28.

Eyl concedes that her crimes were “petty offenses,” but she argues that they should be treated like “serious offenses” because she was sentenced to consecutive terms that, when combined, exceeded 180 days. We agree with the conclusion of the Tenth Appellate District, which determined that “[a] petty offense, being any misdemeanor not constituting a serious offense, is not transformed into a serious offense merely because the punishment imposed may be made consecutive to the sentence imposed with respect to another unrelated misdemeanor of which defendant has been found, or pleads, guilty. Nor does there appear to be any such limitation with respect to related offenses, so long as R.C. 2941.25(A) [the allied-offense statute] is complied with.”<sup>8</sup>

Eyl’s third assignment of error is overruled.

Having considered and overruled each of Eyl’s assignments of error, we 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.

**DINKELACKER, P.J., HILDEBRANDT and FISCHER, JJ.**

To the Clerk:

Enter upon the Journal of the court on May 31, 2011

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

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<sup>8</sup> *State v. Smith* (Mar. 15, 1979), 10th Dist. Nos. 78AP-671, 78AP-672, 78AP-673, and 78AP-674.