

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

STATE OF OHIO,	:	APPEAL NO. C-110802
Plaintiff-Appellee,	:	TRIAL NO. 11CRB-26235
vs.	:	<i>JUDGMENT ENTRY.</i>
DAMON BROWN,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. See S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant Damon Brown appeals the judgment of the Hamilton County Municipal Court terminating community control and imposing the remainder of a jail term for telephone harassment. The basis of the community-control violation was Brown’s alleged telephone contact with the victim.

In his first assignment of error, Brown argues that the finding of a violation was based on insufficient evidence.

To demonstrate a violation of community control, the state need not adduce proof beyond a reasonable doubt; rather, the quantum of evidence supporting the violation must be “substantial.” *State v. Dunaway*, 1st Dist. No. C-010518, 2002-Ohio-3290, ¶ 19, citing *State v. Hylton*, 75 Ohio App.3d 778, 600 N.E.2d 821 (4th Dist.1991). Substantial evidence has been defined as being more than a scintilla of

evidence, but less than a preponderance. *See, e.g., State v. Middlebrooks*, 5th Dist. No. 2010 AP 08 0026, 2011-Ohio-4534, ¶ 14.

Brown first argues that he was not adequately informed that he was to have no contact with the victim. We find no merit in this argument. At the revocation hearing, Brown testified that he knew he was to have no direct or indirect contact with the victim. Thus, we reject any argument that Brown's due-process rights were violated by a lack of notice of the rules of community control.

He next argues that the state failed to adduce sufficient evidence that he had initiated any direct or indirect contact with the victim. This argument is also without merit. The state presented evidence, through the victim and through telephone records, that numerous calls to the victim had originated from the unit in the Hamilton County Justice Center where Brown had been incarcerated. Although the evidence did not firmly establish that Brown himself had made those calls, the trial court could have reasonably inferred that he had at least given other inmates the victim's telephone number in an effort to harass her. This evidence was sufficient to establish that Brown had violated the terms of community control, and we overrule the first assignment of error.

In his second and final assignment of error, Brown contends that the trial court erred in failing to make written findings to support the community-control revocation.

The Supreme Court of Ohio has expressed a preference for written findings in revocation proceedings. *State v. Delaney*, 11 Ohio St.3d 231, 235, 465 N.E.2d 72 (1984). But as this court has held, "the presence of the defendant at all proceedings, the oral statements of the court and the provisions of the judgment entry" may constitute sufficient notice of the grounds for revocation. *See State v. Wright*, 1st

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Dist. No. C-940999, 1995 Ohio App.LEXIS 5191 (Nov. 29, 1995). In this case, Brown demonstrated a complete understanding of the alleged violations, and the trial court stated that the basis of the revocation was the evidence adduced at the hearing. Under these circumstances, we hold that Brown was fully apprised of the grounds for revocation, and we overrule the second assignment of error.

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., CUNNINGHAM and DINKELACKER, JJ.

To the clerk:

Enter upon the journal of the court on August 29, 2012
per order of the court _____.
Presiding Judge