

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

STATE OF OHIO,	:	APPEAL NO. C-130103
	:	TRIAL NO. B-1206468-D
Plaintiff-Appellee,	:	
vs.	:	
	:	<i>JUDGMENT ENTRY.</i>
ERIC SIMS,	:	
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 Eric Sims appeals the judgment of the trial court revoking his community control and imposing a seven-and-a-half-year prison term.

In his first assignment of error, Sims argues that the trial court’s judgment was contrary to the manifest weight of the evidence. A trial court’s finding that a defendant has not complied with community-control sanctions must be supported by substantial evidence in order to revoke the defendant’s community control. *State v. Dockery*, 187 Ohio App.3d 798, 2010-Ohio-2365, 933 N.E.2d 1155, ¶ 10 (1st Dist.). “Substantial evidence” is more than a scintilla of evidence, but less than a preponderance. *State v. McCants*, 1st Dist. Hamilton No. C-120725, 2013-Ohio-2646, ¶ 11.

The trial court found that Sims violated a community-control condition requiring him to conduct himself properly because Sims had been inside a home when police had executed a search warrant, and police had found heroin, drug paraphernalia, and a firearm inside the home. Sims argued to the trial court that he had not known that drugs or firearms were in the house, and that he had been waiting for a friend. The trial court also found that Sims violated a community-control condition by testing positive for marijuana, even though the probation officer who testified at Sims's revocation hearing acknowledged that Sims could have tested positive even if he had not had marijuana since before being placed on community control.

We determine that the trial court's finding of a violation was supported by substantial evidence. Therefore, we overrule the first assignment of error.

In his second assignment of error, Sims argues that the trial court erred by imposing a sentence that is not supported by the findings in the record. Sims specifically argues that the trial court failed to consider substantial grounds to mitigate his conduct under R.C. 2929.12(C)(4), namely that he had been actively seeking employment, and that he had been "staying off drugs, and avoiding new charges."

Sims has not affirmatively shown that the trial court failed to consider Sims's alleged mitigating grounds under R.C. 2929.12(C). *See State v. Brown*, 1st Dist. Hamilton No. C-120327, 2013-Ohio-2720, ¶ 46. On this record, we cannot say that Sims's sentence was clearly and convincingly contrary to law, and we overrule his second assignment of error. *See State v. White*, 1st Dist. Hamilton No. C-130114, 2013-Ohio-4225, ¶ 12-14.

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The judgment of the trial court is affirmed.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HENDON, P.J., DINKELACKER and FISCHER, JJ.

To the clerk:

Enter upon the journal of the court on January 29, 2014
per order of the court _____.
Presiding Judge