

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

State of Ohio, :
 :
 Plaintiff-Appellee, :
 :
 v. : No. 09AP-889
 : (C.P.C. No. 83CR-143)
 Howard S. McCardle, :
 : (REGULAR CALENDAR)
 Defendant-Appellant. :

D E C I S I O N

Rendered on March 2, 2010

Ron O'Brien, Prosecuting Attorney, and *Sarah W. Creedon*,
for appellee.

Howard S. McCardle, pro se.

APPEAL from the Franklin County Court of Common Pleas

TYACK, P.J.

{¶1} Howard S. McCardle is appealing from the trial court's refusal to grant him shock probation. He assigns a single error for our consideration:

THE TRIAL COURT CLEARLY ERRED TO THE PREJUDICE OF THE DEFENDANT-APPELLANT, BY APPLYING THE WRONG STATUTE TO THE DEFENDANT'S CASE, RC 2929.20 INSTEAD OF THE PROPER STATUTE RC 2947.061, AND FAILING TO GRANT RELIEF REQUESTED.

{¶2} In 1983, McCardle entered guilty pleas to five charges of rape, one charge of attempted rape and six charges of aggravated burglary. He received consecutive sentences of incarceration which totaled 82 to 290 years.

{¶3} In July 2009, McCardle filed a motion seeking release from prison on shock probation. The trial court judge assigned to his case overruled his motion. In his entry, the judge referenced the current statute governing shock probation, R.C. 2929.20 which was enacted in 1996.

{¶4} McCardle is correct that any motion he filed seeking shock probation should have been considered under the statute in effect when he entered his guilty pleas. However, McCardle has never been eligible for shock probation because of his five convictions for rape.

{¶5} McCardle spends a good deal of time in his appellate brief arguing about good-time credit as formerly allowed under R.C. 2967.19. However, good-time credit is an issue for the prison authorities and the Ohio Adult Parole Authority, not the Franklin County Court of Common Pleas.

{¶6} The trial court did not err in refusing to release McCardle on shock probation. The sole assignment of error is overruled. The judgment of the Franklin County Court of Common Pleas is affirmed.

Judgment affirmed.

BROWN and FRENCH, JJ., concur.
