

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

State of Ohio

Court of Appeals No. L-10-1341

Appellee

Trial Court No. CR0201002890

v.

Daniel Linares

DECISION AND JUDGMENT

Appellant

Decided: May 25, 2012

* * * * *

Julia R. Bates, Lucas County Prosecuting Attorney, and
Evy M. Jarrett, Assistant Prosecuting Attorney, for appellee.

Vijay K. Puligandla, for appellant.

* * * * *

HANDWORK, J.

{¶ 1} This case is before the court on appeal from the judgment of the Lucas County Court of Common Pleas which, on October 22, 2010,¹ following a plea of guilty pursuant to *North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970),

¹ The judgment entry was journalized on October 26, 2010.

found appellant, Daniel Linares, guilty of rape, in violation of R.C. 2907.07(A)(2) and (B), a felony of the first degree. The trial court sentenced appellant to ten years, the maximum term of incarceration, for the rape of a minor between the ages of five and seven years. Appellant appeals his sentence, raising the following sole assignment of error:

The record established in the trial court does not justify the sentence that was imposed by the trial court, and it is otherwise contrary to the law established under R.C. 2953.08, and therefore pursuant to R.C. 2953.08 this appellate court should reduce the sentence or remand the matter back to the trial court for resentencing.

{¶ 2} Pursuant to 6th Dist.Loc.App.R. 12(A), we sua sponte transfer this matter to our accelerated docket and, hereby, render our decision.

{¶ 3} Upon a thorough review of the record and transcript of proceedings, we find that the trial court complied with all applicable sentencing rules and statutes and imposed a sentence within the statutory range for rape. Therefore, the sentence is not clearly and convincingly contrary to law. *See State v. Kalish*, 120 Ohio St.3d 23, 2008-Ohio-4912, 896 N.E.2d 124, ¶ 4. We also find that, pursuant to the facts presented in this case, including the age of the victim, the psychological harm resulting from the offense, and appellant's relationship with the victim, the trial court's sentence was reasonable and not an abuse of discretion. *See Id.* at ¶ 17, R.C. 2929.12(B), and *State v. Adams*, 62 Ohio St.2d 151, 157, 404 N.E.2d 144 (1980) ("The term 'abuse of discretion' connotes more

than an error of law or of judgment; it implies that the court's attitude is unreasonable, arbitrary or unconscionable.") Accordingly, we find appellant's sole assignment of error not well-taken.

{¶ 4} On consideration whereof, this court finds that appellant was not prejudiced or prevented from having a fair trial and the judgment of the Lucas County Court of Common Pleas is affirmed. Appellant is ordered to pay the costs of this appeal pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Peter M. Handwork, J.

JUDGE

Mark L. Pietrykowski, J.

JUDGE

Thomas J. Osowik, J.
CONCUR.

JUDGE

<p>This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at: http://www.sconet.state.oh.us/rod/newpdf/?source=6.</p>
