

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

State of Ohio

Court of Appeals No. L-14-1115

Appellee

Trial Court No. CR0201401139

v.

Timothy Nimocks

DECISION AND JUDGMENT

Appellant

Decided: January 30, 2015

* * * * *

Julia R. Bates, Lucas County Prosecuting Attorney, and
Brenda J. Majdalani, Assistant Prosecuting Attorney, for appellee.

Tim A. Dugan, for appellant.

* * * * *

PIETRYKOWSKI, J.

{¶ 1} Appellant, Timothy Nimocks, appeals a May 13, 2014 judgment of the Lucas County Court of Common Pleas sentencing him on a conviction of attempt to commit forgery, a violation of R.C. 2923.02 and 2913.31(A)(3) and (C)(1)(a), and a

misdemeanor of the first degree. Appellant pled guilty to the offense. The trial court sentenced appellant to incarceration at the Corrections Center of Northwest Ohio for a period of six months.

{¶ 2} Appellant asserts a single assignment of error on appeal:

1. The trial court's sentence is contrary to law.

{¶ 3} Citing this court's decision in *State v. Polus*, 12 N.E.3d 1237, 2014-Ohio-2321 (6th Dist.), appellant argues that a sentence of six months on a conviction for a first degree misdemeanor is contrary to law because the sentence exceeds the statutory maximum sentence of 180 days permitted under R.C. 2929.24(A)(1). The state agrees.

{¶ 4} Appellant requests this court to reverse the trial court judgment and remand the case to the trial court for resentencing. The state requests, in the interest of judicial economy and pursuant to authority granted in App.R. 12(B), that we reverse the trial court judgment and impose the correct sentence of 180 days. We conclude in the interest of judicial economy that it is unnecessary to remand the case for resentencing and follow the procedure recommended by the state.

{¶ 5} We conclude that the trial court erred in sentencing appellant to a six-month sentence instead of a 180-day sentence. Accordingly, we reverse the May 13, 2014 judgment of the Lucas County Court of Common Pleas and modify the third paragraph of the judgment to read as follows:

After having considered the Presentence Investigation Report and having afforded defendant and defense counsel their rights pursuant to Rule

32(A)(1), the Court orders that defendant be committed to the Corrections Center of Northwest Ohio for a period of 180 days until released according to law.

{¶ 6} The costs of this appeal are assessed to the state pursuant to App.R. 24.

Judgment reversed.

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

Mark L. Pietrykowski, J.

JUDGE

Stephen A. Yarbrough, P.J.

JUDGE

James D. Jensen, J.
CONCUR.

JUDGE

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>.