

FILED.
COMMON PLEAS COURT. 04 NOV 18 PM 2:30.
JoAN C. MONNETT, CLERK OF COURTS. OTTAWA COUNTY, OHIO

IN THE COURT OF COMMON PLEAS OF OTTAWA COUNTY, OHIO

STATE OF OHIO

Plaintiff

Case No. 04-CR-083

vs.

BRIAN CUIFFO (**editor's note: Brian A. Cuiffo, born 1985**)

Defendant

SENTENCING
JUDGMENT ENTRY

On November 12, 2004, Defendant's sentencing hearing was held pursuant to Ohio Revised Code 2929.19. Defense attorney James Sammon and the State's attorney Gregory S. McGory were present as was Defendant who was afforded all rights pursuant to Crim.R. 32. The Court has considered the record, oral statements, any victim impact statement and presentence report prepared, as well as the principles and purposes of sentencing under Ohio Revised Code Section 2929.11, and has balanced the seriousness and recidivism factors under Ohio Revised Code 2929.12. The more serious factors outweigh the less serious factors. The more serious factor is that the victim suffered serious economic harm.

The less serious factor is that this was not an offense of violence.

The more likely recidivism factors outweigh the less likely factors.

The recidivism factors indicating recidivism is more likely are: the Defendant committed this offense while on diversion program from another Court; the Defendant's history of criminal convictions or delinquency adjudications; the Defendant has not responded favorably to sanctions previously imposed; and the Defendant has an

alcohol/drug abuse pattern related to the offense and offender does not acknowledge pattern or refuses treatment.

The recidivism factor indicating recidivism is less likely is that the Defendant shows genuine remorse. .

The Court finds that Defendant has been convicted of two (2) counts of Vandalism, both violations of Ohio Revised Code Section 2909.05(B)(2), both felonies of the fifth degree as charged in Counts #Two and #Three of the Indictment and of Criminal Damaging, a violation of Ohio Revised Code Section 2909.06(A)(1), a misdemeanor of the second degree as charged in Count #Five of the Indictment.

The Court further finds that those factors, supporting Community Control Sanction under Ohio Revised Code Section 2929.13 exist. It is hereby **ORDERED** that Defendant be sentenced to three (3) years of community control as to Counts #Two and #Three of the indictment. **NON-RESIDENTIAL..**

You are hereby granted probation subject to the general conditions of probation which are filed of record in Journal Volume 188, pages 717-718, and are hereby made part of this order by reference. You shall follow the advice and directions of, and be subject to the supervision of the probation department of this Court.

You shall abide by the following Special Conditions of Release:

1. The defendant shall not possess, consume, purchase, or have under control any alcoholic beverage nor shall the defendant enter any place where alcoholic beverages are sold, except such places as where the sale of alcoholic beverages is incidental to some other primary business purpose without the written consent of the Court's Adult Probation Department.
2. The defendant shall in good faith, enroll in and attend a

counseling and/or drug or alcohol treatment program as designated by the Court's Adult Probation Department until such time as the defendant is satisfactorily released by the designated program. Removal, elimination or termination from the designated program for any reason other than satisfactory completion of the program is considered a violation of the defendant's probation.

3. The defendant shall not leave place of residence between the hours of 11:00 PM and 6:00 AM, unless prior written consent has been granted by the Court's Adult Probation Department.

The defendant shall make restitution in the amount of *[names and dollar amounts are a matter of public record]*, payable through the Ottawa County Clerk of Courts and under the direction of the Court's Adult Probation Department.

5. Upon the direction of the Court's Adult Probation Department, the defendant will submit to examination by urinalysis. Upon each examination, the defendant shall pay to the Ottawa County Clerk of Courts, the cost of the urinalysis examination and laboratory fees.

6. The defendant shall serve 100 hours of voluntary community service under the direction of the Court's Adult Probation Department.

You are hereby placed under the custody and supervision of the Ottawa County Adult Probation Department.

The defendant shall serve 60 days in the Ottawa County Detention Facility or Ottawa County Misdemeanant facility if eligible, as to Count #Five of the indictment. Said 60 days is hereby suspended on the conditions as previously stated.

During the period of supervision any Officer(s) of the Ottawa County Adult Probation Department, within the scope of their supervisory duties or responsibilities, may search with or without a warrant the Defendant's person, place of residence, motor vehicle, any other item of tangible or intangible property, or other real property in which the Defendant has a right, title or interest, or for which the Defendant has the express or implied permission of the person with a right, title or interest to use, occupy, or possess if the Probation Officer(s) have reasonable grounds to believe that the offender is not abiding by the law or otherwise is not complying with any condition of supervision.

Any violation of this sanction may lead to a longer or more restrictive sanction, specifically, a prison term of up to twelve (12) months.

Counts #One, #Four, #Six, #Seven, #Eight, #Nine and #Ten are hereby dismissed.

Defendant is ordered to pay restitution, all costs of prosecution and any fees permitted pursuant to Ohio Revised Code Section 2929.18(A)(4) for which judgment is awarded to Ottawa County and against Defendant.

The Court has found the Defendant to be Brian A. Cuiffo, whose Date of Birth is xx/xx/xx, and whose Social Security number is xxx-xx-xxxx. Bond is hereby released.

The Court explained the concepts of post release control. Defendant was advised of his right to appeal within thirty (30) days of this order. The Ottawa County Clerk of Courts shall deliver a file-stamped copy of this Journal Entry to the Ottawa County Prosecutor, the Defendant's attorney, the Ottawa County Adult Probation Department, and the Ottawa County Sheriff.

PAUL C. MOON, JUDGE

APPROVED:

GREGORY S. McGORY
ASSISTANT PROSECUTING ATTORNEY