

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

STATE OF OHIO,	:	APPEAL NOS. C-081179
		C-090067
Plaintiff-Appellee,	:	TRIAL NOS. B-0808099
		B-06008851
vs.	:	
		<i>JUDGMENT ENTRY.</i>
SIR WILLIAM ABERNATHY,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Defendant-appellant Sir William Abernathy pleaded guilty to drug possession and to violating a community-control sanction that had been imposed for an earlier conviction. The trial court imposed a one-year prison sentence for the drug-possession charge. The court terminated community control and imposed a concurrent 18-month sentence for the community-control violation. Abernathy now appeals.

In a single assignment of error, Abernathy argues that the trial court erred by sentencing him to prison. In reviewing the sentences, we must first determine whether they were clearly and convincingly contrary to law.² If they were not, we then review the trial court's decision under an abuse-of-discretion standard.³

Abernathy acknowledges that his sentences were within the statutory ranges, and, therefore, were not contrary to law. But he contends that the trial court imposed

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

² See *State v. Kalish*, 120 Ohio St.3d 23, 2008-Ohio-4912, 896 N.E.2d 124; *State v. Dority-Trapp*, 1st Dist. No. C-0811114, 2009-Ohio-4058, ¶25.

³ Id.

prison terms because he had failed to reveal his drug dealer's name, thereby abusing its sentencing discretion.

Abernathy contends that his guilty pleas to the community-control violation and to the drug charge had been "impermissibly induced" by the court's failure to inform him that his provision of a dealer's name might factor into its sentencing decision. But Abernathy had entered his pleas *before* the court asked for the name, so he cannot say that his pleas were influenced by the question.

We hold that the trial court did not abuse its discretion in imposing prison terms. The court had warned Abernathy that his violation of the conditions of his community control would result in an 18-month prison sentence. Despite the warning, Abernathy proved himself to be a poor candidate for community control: he had pleaded guilty to felony drug possession, had been cited for numerous driving-while-under-suspension offenses, and had failed to report to his probation officer for several months.

Accordingly, we overrule the assignment of error and affirm the judgment of the trial court.

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., SUNDERMANN and CUNNINGHAM, JJ.

To the Clerk:

Enter upon the Journal of the Court on October 28, 2009
per order of the Court _____
Presiding Judge