

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

STATE OF OHIO,	:	APPEAL NO. C-170362
	:	TRIAL NO. 17CRB-17446
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
VERLAND JONES,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant, Verland Jones, was held in direct criminal contempt of court, in violation of R.C. 2705.01, and sentenced to 30 days in jail. During his arraignment on a felony murder charge, Jones cursed in court and crumpled up a piece of paper and threw it in the direction of the deputy clerk for the Hamilton County Clerk of Courts. Jones now appeals.

Jones has already served 30 days in jail following the trial court's denial of his motion to stay his sentence, but the appeal of his contempt conviction is not moot. While Jones did not subsequently file a motion to stay his sentence with this court, the Ohio Supreme Court has held that such an appeal is not moot. "The completion of a sentence is not voluntary and will not moot an appeal if the circumstances surrounding it demonstrate that the appellant neither acquiesced in the judgment nor abandoned the right to appellate review, that the appellant has a substantial stake in the judgment

of conviction, and that there is subject matter for the appellate court to decide.” *Cleveland Hts. v. Lewis*, 129 Ohio St.3d 389, 2011-Ohio-2673, 953 N.E.2d 278, ¶ 26; see *State v. Farris*, 1st Dist. Hamilton No. C-150567, 2016-Ohio-5527, ¶ 4.

In his sole assignment of error, Jones argues that the trial court abused its discretion in holding him in direct criminal contempt of court. A determination of contempt by a trial court is reviewed for an abuse of discretion. *State v. Adams*, 1st Dist. Hamilton No. C-130559, 2014-Ohio-2728, 14 N.E.3d 1071. An abuse of discretion requires a finding that the trial court’s decision was unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219, 450 N.E.2d 1140 (1983). R.C. 2705.01 allows a court to “summarily punish a person guilty of misbehavior in the presence of or so near the court or judge as to obstruct the administration of justice,” also known as direct contempt. See *In re Thomas*, 1st Dist. Hamilton No. C-030429, 2004-Ohio-373, ¶ 4. Two conditions must be met before a court may punish a person for contempt: (1) the trial court “must have personal knowledge of the disruptive conduct acquired by his own observation of the contemptuous conduct;” and (2) “the conduct must pose an open threat to the orderly procedure of the court and such a flagrant defiance of the person and presence of the judge before the public that, if not instantly suppressed and punished, demoralization of the court’s authority will follow.” (Internal quotations omitted.) *Adams* at ¶ 13. “Courts must carefully discern between words that are contemptuous only to the court’s sensibilities (which are not punishable), and those that pose an actual or imminent threat to the administration of justice (which are punishable) * * *.” *State v. Webster*, 1st Dist. Hamilton No. C-070027, 2008-Ohio-1636, ¶ 57.

Here, Jones interrupted his arraignment proceedings with a verbal outburst expressing disagreement with the amount set for his bond. Jones cursed several times,

OHIO FIRST DISTRICT COURT OF APPEALS

and the court warned that it would hold him in contempt if he continued. Jones then crumpled up a piece of paper and threw it toward the deputy clerk. The trial court ordered Jones to leave the courtroom and immediately concluded the hearing. The outburst coupled with the act of throwing a ball of paper toward the deputy clerk was sufficient to find an open threat to the orderly procedure of the court. *See Webster* at ¶ 58 (a verbal outburst coupled with the disruption of proceedings constituted a threat to the administration of justice). Therefore, we find that the trial court did not abuse its discretion in finding Jones guilty of contempt. The assignment of error is overruled.

The judgment of the trial court is affirmed.

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.

MYERS, P.J., MILLER and DETERS, JJ.

To the clerk:

Enter upon the journal of the court on June 1, 2018

per order of the court _____.
Presiding Judge