

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

STATE OF OHIO,	:	APPEAL NO. C-190229
	:	TRIAL NO. B-1800200
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
LEROY ACOFF,	:	
	:	
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 Leroy Acoff originally pleaded guilty to having weapons while under a disability and was placed on community control. The court informed him that if he violated the terms of his community control, he would receive a sentence of 36 months' incarceration.

Acoff was subsequently charged with several violations of the conditions of his community control. Those violations included going to Florida without obtaining the approval of his probation officer, being charged with domestic violence in Florida, failing to report to his probation officer, testing positive for cocaine, and failing to make payments towards his court costs and fines.

Following a hearing, the trial court found Acoff to be in violation of the conditions of his community control. It terminated Acoff's community control and sentenced him to 18 months in prison. This appeal followed.

In his sole assignment of error, Acoff contends that the trial court erred by not allowing him the opportunity to speak prior to sentencing, thus denying him his right to allocution. He argues that court did not allow him an opportunity to speak until after it had already decided on the sentence. This assignment of error is not well taken.

Crim.R. 32(A) provides that at the time of imposing sentence, the court shall "address the defendant personally and ask if he or she wishes to make a statement in his or her own behalf or present any information in mitigation of punishment." The right of allocution belongs to the defendant himself. *State v. Greenway*, 1st Dist. Hamilton No. C-160511, 2017-Ohio-7729, ¶ 21. A defendant has the right to allocution at a sentencing hearing following the revocation of community control. *State v. Jackson*, 150 Ohio St.3d 362, 2016-Ohio-8127, 81 N.E.3d 1237, ¶ 15; *State v. Osume*, 1st Dist. Hamilton No. C-140390, 2015-Ohio-3850, ¶ 20-22.

The record shows that Acoff spoke several times at the hearing. He mistakenly claimed that the domestic-violence charge had been dismissed in Florida, apparently because he was let out of jail. The trial court indicated it was more interested in why he had absconded to Florida, and allowed him to explain. He stated that his wife's father had stage-four cancer, and he and his wife went to Florida so she could take care of him. After some back and forth, Acoff asked if he could say something and the trial court allowed him to speak again. He attempted to explain what had happened with the domestic-violence charge.

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Although the court stated early in the hearing that it would not send Acoff to River City for drug treatment and that he was going to jail, it did not say how much jail time it would impose prior to him speaking. After Acoff spoke, the court stated that it felt that he didn't deserve the whole 36 months in prison, even with his record, and imposed 18 months.

Thus, the record shows that Acoff was not denied the right to allocution. *See State v. Long*, 1st Dist. Hamilton No. C-150713, 2016-Ohio-5345, ¶ 5-7. We, therefore, overrule his sole assignment of error and affirm the trial court's judgment.

A certified copy of this judgment entry constitutes the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

MOCK, P.J., ZAYAS and BERGERON, JJ.

To the clerk:

Enter upon the journal of the court on March 31, 2020
per order of the court _____.
Presiding Judge