

**IN THE COURT OF COMMON PLEAS
STARK COUNTY, OHIO**

STATE OF OHIO)	CASE NO. 2011CR0354
)	
Plaintiff)	JUDGE EUGENE A. LUCCI
)	(Sitting by Assignment)
vs.)	
)	<u>JUDGMENT ENTRY OF SENTENCE</u>
CHARLES R. PORE)	
)	PRISON SENTENCE IMPOSED
Defendant)	(on remand from 2011-CA-00190)

This matter is before the court, this 30th day of April 2013, on remand, dated August 13, 2012, from the Court of Appeals, Fifth District, Stark County, in Case No. 2011-CA-00190, 2012-Ohio-3660, discretionary appeal not allowed on January 23, 2013, 2013–Ohio–158, for entry of conviction and re-sentencing, the finding of guilt on all of the offenses contained in the indictment having been affirmed in its entirety by the Court of Appeals.

The defendant, Charles Ross Pore, appeared in court in the custody of the Stark County sheriff and accompanied by counsel, April R. Bible, Esq., for purposes of entry of conviction and sentencing. The Stark County Prosecuting Attorney, John D. Ferrero Jr., by and through Chryssa N. Hartnett, Assistant Prosecuting Attorney, appeared on behalf of the State of Ohio.

The defendant, who had previously entered a plea of not guilty at the arraignment, pled guilty on July 21, 2011 to all of the offenses contained in the indictment, namely:

Rape, in Count One, a violation of R.C. §2907.02(A)(2), a felony of the first degree (F-1), with a sexually violent predator specification as defined in R.C. §2971.01 and pursuant to R.C. §2941.148, and a repeat violent offender specification, pursuant to R.C. §2941.149;

Kidnapping, in Count Two, a violation of R.C. §2905.01(A)(4), a felony of the first degree (F-1), with a sexual motivation specification, pursuant to R.C. §2941.147, a sexually violent predator specification as defined in R.C. §2971.01 and pursuant to R.C. §2941.148, and a repeat violent offender specification, pursuant to R.C. §2941.149;

Aggravated Burglary, in Count Three, a violation of §R.C. 2911.11(A)(2), a felony of the first degree (F-1), with repeat violent offender specification, pursuant to R.C. §2941.149; and

Notice of Change of Address; Registration of New Address, in Count Four, a violation of R.C. §§2950.05(A)(F)(1) and 2950.99(A), a felony of the second degree (F-2).

The parties have stipulated to the existing record and waive the taking of any additional evidence.

Before sentencing, the court asked the defendant and his counsel whether they had anything to say on the defendant's behalf or in mitigation of punishment, pursuant to Crim.R. 32(A), after which, with no showing of good and sufficient reason why sentence should not be pronounced, the court proceeded with sentencing.

The court has considered the record, oral statements, any victim impact statement and pre-sentence report prepared, as well as the principles and purposes of sentencing under R.C. §2929.11, and has balanced the seriousness and recidivism factors under R.C. §2929.12.

In accordance with the Court of Appeals' judgment on August 13, 2012, in Case No. 2011-CA-00190, at ¶ 35, the court finds Kidnapping, in Count Two, a violation of R.C. §2905.01(A)(4), a felony of the first degree, with a sexual motivation specification, pursuant to R.C. §2941.147, a sexually violent predator specification as defined in R.C. §2971.01 and pursuant to R.C. §2941.148, and a repeat violent offender specification, pursuant to R.C. §2941.149, is an allied offense of similar import with Count One, Rape, and no judgment of conviction or sentence shall be imposed on Count Two.

The court finds that the defendant has been found guilty of:

Rape, in Count One, a violation of R.C. §2907.02(A)(2), a felony of the first degree (F-1), with a sexually violent predator specification as defined in R.C. §2971.01 and pursuant to R.C. §2941.148, and a repeat violent offender specification, pursuant to R.C. §2941.149;

and, as such, being subject to a mandatory prison term under divisions (F)(2), (F)(6), and (F)(11) of §2929.13 of the Revised Code;

Aggravated Burglary, in Count Three, a violation of R.C. §2911.11(A)(2), a felony of the first degree (F-1), with repeat violent offender specification, pursuant to R.C. §2941.149;

and, as such, being subject to a mandatory prison term under division (F)(6) of §2929.13 of the Revised Code;

Notice of Change of Address; Registration of New Address, in Count Four, a violation of R.C. §§2950.05(A)(F)(1) and 2950.99(A), a felony of the second degree (F-2);

and, as such, being subject to a presumption in favor of prison under division (D) of §2929.13 of the Revised Code.

The court finds for reasons stated on the record on April 30, 2013 and on August 3, 2011 that the defendant has committed the worst forms of the underlying offenses of Rape and Aggravated Burglary, and that there was a separate animus for each said underlying offense, and that the defendant poses the greatest likelihood of recidivism, and therefore, maximum sentences are appropriate and necessary.

The court, pursuant to R.C. §2929.14(E)(4), further finds for reasons stated on the record on April 30, 2013 and on August 3, 2011 that consecutive sentences are necessary to protect the public from future crimes and to punish the offender and that consecutive sentences are not disproportionate to the seriousness of the offender's conduct and to the danger the offender poses to the public. The court finds that the offender committed these offenses while under post-release control for a prior offense. The court further finds that the harm caused was so great or unusual that no single prison term for any of the offenses adequately reflects the seriousness of the offender's conduct. Further, the court finds the offender's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crimes from the offender.

The court finds that the defendant has been convicted of or pled guilty to a felony and/or a misdemeanor as listed in division (D) of R.C. §2901.07 and hereby orders that a sample of the defendant's DNA be collected, pursuant to R.C. §2901.07.

The court has considered the mandatory prison terms under §2929.13(F) and the presumptions under §2929.13(D) of the Revised Code, and therefore:

1. On the charge of Rape, R.C. §2907.02(A)(2), (F-1), as charged in Count One of the indictment, it is hereby ordered that the defendant serve a stated prison term of ten (10) years;

1a. On the Sexually Violent Predator specification on Count One, pursuant to R.C. §2971.03, it is hereby ordered that the defendant shall serve an indefinite prison term of fifteen (15) years to life imprisonment, to be served consecutively to the underlying offense of Rape;

1b. On the Repeat Violent Offender Specification on Count One, pursuant to R.C. §2929.14, it is hereby ordered that the defendant shall serve, in addition to the maximum sentence for the underlying offense, an additional prison term of eight (8) years to be served consecutively to the underlying offense;

2. On the charge of Aggravated Burglary, R.C. §2911.12(A)(2), (F-1), as charged in Count Three of the indictment, it is hereby ordered that the defendant shall serve a stated prison term of ten (10) years consecutive to Count One;

2a. On the Repeat Violent Offender specification on Count Three, pursuant to R.C. §2929.14, it is hereby ordered that the defendant shall serve, in addition to the maximum sentence for the underlying offense, an additional term of eight (8) years consecutive to the underlying offense, which shall merge with the repeat violent offender specification on Count One;

3. On the charge of Notice of Change of Address; Registration of New Address, R.C. §§2950.05(A)(F)(1) and 2950.99(A), (F-2), as charged in Count Four of the indictment, it is hereby ordered that the defendant shall serve a stated prison term of two (2) years, which shall run consecutive to Counts One and Three.

The court further finds that the defendant has violated post-release control, and pursuant to R.C. §2929.141, the court further imposes an additional two (2) years, which shall be served consecutively to all other counts, of the time the defendant had remaining on post-release control in Stark County Common Pleas Case Numbers 2004CR1344 and 2004CR1414.

Thus, it is therefore ordered that the above sentences result in a total period of incarceration of fifty-seven (47) years to life imprisonment.

Upon release from prison, the defendant is ordered to serve a mandatory period of five (5) years of post-release control on Count One and Count Three, and a mandatory period of three (3) years of post-release control on Count Four, pursuant to R.C. §2967.28(B). Additionally, with regard to the indefinite sentence for the sexually violent predator specification, the defendant is subject to parole for life, with a minimum of mandatory five years. It is further ordered that the terms of post-release control imposed in this sentence shall be served concurrently, as required by R.C. §2967.28(F)(4)(c). This period of post-release control was imposed as part of Defendant's criminal sentence at the sentencing hearing, pursuant to R.C. §2929.19.

If the defendant violates the conditions of post-release control, the defendant will be subject to an additional consecutive prison term of up to one-half of the stated prison term as otherwise determined by the Parole Board, pursuant to law. If the defendant violates the conditions of post-release control at the time of the commission of a new felony, the defendant will be subject to termination of the term of post-release control and, in addition to any prison term for the new felony, the court in the new felony case may impose an additional consecutive prison term of the greater of twelve months or the period of post-release control for the earlier felony minus any time the defendant has spent under post-release control for the earlier felony, pursuant to R.C. §2929.141.

The court designated the defendant a Tier III offender, pursuant to R.C. §2950.01(G), and therefore is subject to such corresponding registration requirements under R.C. Chapter 2950.

Defendant is therefore ordered conveyed to the custody of the Ohio Department of Rehabilitation and Correction.

It is further ordered, adjudged, and decreed that this defendant is entitled to jail time credit from the date of his arrest on February 28, 2011 until the date of transport into the custody of the Ohio Department of Rehabilitation and Corrections.

The defendant is advised that under certain circumstances specified in R.C. §2967.193, if he is eligible, he may be able to earn days of credit up to 8% of his prison term.

The court, pursuant to R.C. §120.36, hereby orders that if the defendant requested or was provided representation by the Stark County Public Defender, there is hereby assessed a \$25.00 non-refundable application fee.

The court hereby opposes any intensive prison program or shock incarceration.

It is further ordered that the court costs are hereby waived.

Whereupon the court explained to the defendant his rights to appeal according to Crim.R. 32, including his right to: (1) appeal the sentence imposed, (2) counsel, (3) all necessary documents, and (4) a timely filed notice of appeal, all without payment or cost to the defendant. The court herewith appoints counsel, John N. Mackey, Esq., for purposes of appeal.

It is further ordered, adjudged, and decreed that any law enforcement agency having custody of evidence in this case may dispose of said evidence pursuant to R.C. §2981.12 after the appropriate time period has passed and provided no appeals are pending in the above captioned case.

IT IS SO ORDERED.



HON. EUGENE A. LUCCI
(Sitting by Assignment)

Copies:

Chryssa N. Hartnett, Esq., Assistant Prosecuting Attorney
April R. Bible, Esq., Assistant Public Defender
John N. Mackey, Esq., Attorney for Defendant (on appeal)