

IN THE COURT OF APPEALS OF OHIO  
TENTH APPELLATE DISTRICT

State of Ohio, :  
 :  
 Plaintiff-Appellee, :  
 :  
 v. : No. 11AP-679  
 : (C.P.C. No. 99CR-12-6642)  
 Vincent C. Jordan, : (REGULAR CALENDAR)  
 :  
 Defendant-Appellant. :

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D E C I S I O N

Rendered on March 6, 2012

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*Ron O'Brien*, Prosecuting Attorney, and *Laura R. Swisher*, for appellee.

*Yeura R. Venters*, Public Defender, and *David L. Strait*, for appellant.

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APPEAL from the Franklin County Court of Common Pleas.

BROWN, P.J.

{¶ 1} Vincent C. Jordan, defendant-appellant, appeals from a judgment of the Franklin County Court of Common Pleas, in which the court denied his motion to correct judgment entry by nunc pro tunc.

{¶ 2} On May 24, 2000, the trial court issued a judgment entry, finding appellant guilty of burglary, a second-degree felony, and sentencing him to a five-year prison term, to be served consecutively to a sentence imposed on March 20, 2000 for a first-degree felony rape conviction in case No. 98CR-5795. The May 24, 2000 judgment entry indicated that a prison sentence was mandatory.

{¶ 3} Appellant appealed his conviction and sentence, and this court affirmed the trial court's judgment on December 5, 2000.

{¶ 4} On March 8, 2011, appellant filed a motion to correct judgment entry by nunc pro tunc. On July 13, 2011, the trial court issued a judgment denying the motion without further comment. Appellant appeals the judgment of the trial court, asserting the following assignment of error:

The trial court erred by overruling Appellant's Motion to Correct Judgment Entry by a *Nunc Pro Tunc Entry*.

{¶ 5} Appellant argues in his assignment of error that the trial court erred when it denied his motion for nunc pro tunc entry. Appellant asserts that the entry incorrectly states that a prison term is mandatory. Appellant contends that the state improperly relied upon R.C. 2929.13(F)(6), which provides that a court "shall" impose a prison term for any offense that is a first- or second-degree felony "if the offender previously was convicted of or pleaded guilty to \* \* \* any first or second degree felony." Appellant maintains that "previously was convicted of or pleaded guilty" in R.C. 2929.13(F)(6) should not apply to him based merely upon the fact that his first-degree felony rape conviction happened to occur before the burglary conviction in the present case. Appellant urges that R.C. 2929.13(F)(6) should not apply when the two prosecutions are occurring simultaneously, and the provision should be read to mean that a prison term is mandatory only if the offender was previously convicted of any first- or second-degree felony before the commission of the first- or second-degree felony offense in question.

{¶ 6} Appellant cites no case law for his proposition that "previously was convicted of or pleaded guilty to \* \* \* any first or second degree felony" should be interpreted to mean "previously was convicted of or pleaded guilty to \* \* \* any first or second degree felony [before the commission of the first- or second-degree felony offense in question]." R.C. 2929.13(F)(6) is unambiguous. When the language of a statute is plain and unambiguous and conveys a clear and definite meaning, there is no occasion for resorting to rules of statutory interpretation. *Ohio Dental Hygienists Assn. v. Ohio State Dental Bd.*, 21 Ohio St.3d 21, 23 (1986). An unambiguous statute is to be applied, not interpreted. *Id.*

{¶ 7} In the present case, because the language in R.C. 2929.13(F)(6) is unambiguous, we cannot add language to it. *State ex rel. Stoll v. Logan Cty. Bd. of Elections*, 117 Ohio St.3d 76, 2008-Ohio-333, ¶ 39; *State ex rel. Lorain v. Stewart*, 119 Ohio St.3d 222, 2008-Ohio-4062, ¶ 36 (court cannot add language to statute). If the legislature had intended to add the language urged by appellant to the statute, it could have easily and explicitly done so. See *Proctor v. Orange Barrel Media, L.L.C.*, 10th Dist. No. 06AP-762, 2007-Ohio-3218, ¶ 21 (if the legislature had intended statute to include certain language, it could have done so very simply). Thus, we are left with what R.C. 2929.13(F)(6) actually provides, which is that a court must impose a prison term for any offense that is a first- or second-degree felony if the offender previously was convicted of or pleaded guilty to any first- or second-degree felony. As appellant was previously convicted of rape, a first-degree felony, prior to his current conviction for burglary, a second-degree felony, the trial court was required to impose a prison term pursuant to the unambiguous language of R.C. 2929.13(F)(6). Therefore, the trial court did not err when it denied appellant's motion to correct entry by nunc pro tunc, and appellant's assignment of error is overruled.

{¶ 8} Accordingly, appellant's single assignment of error is overruled, and the judgment of Franklin County Court of Common Pleas is affirmed.

*Judgment affirmed.*

KLATT and FRENCH, JJ., concur.

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