

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio,	:	
	:	
Plaintiff-Appellee,	:	
	:	No. 05AP-841
v.	:	(C.P.C. No.01CR-5008)
	:	
Joe Morris,	:	(REGULAR CALENDAR)
	:	
Defendant-Appellant.	:	

O P I N I O N

Rendered on March 31, 2006

Ron O'Brien, Prosecuting Attorney, and *Kimberly M. Bond*, for
appellee.

Joe Morris, pro se.

APPEAL from the Franklin County Court of Common Pleas.

SADLER, J.

{¶1} Defendant-appellant, Joe Morris ("appellant"), appeals from the judgment of the Franklin County Court of Common Pleas, in which that court denied appellant's petition for post-conviction relief. For the following reasons, we affirm.

{¶2} On April 30, 2002, appellant pled guilty to one count of engaging in a pattern of corrupt activity, three counts of aggravated robbery and one count of aggravated burglary, all felonies of the first degree; and one count of felonious assault, a

felony of the second degree. On May 1, 2002, the trial court sentenced appellant to an aggregate sentence of 35 years of imprisonment. Appellant did not appeal his sentence.

{¶3} On June 20, 2005, appellant filed with the trial court a motion entitled, "Motion for Vacation of Void Judgment & Remand for Correct Sentence to be Imposed." Therein, he argued that his sentences were unlawful under the decision of the United States Supreme Court in *Blakely v. Washington* (2004), 542 U.S. 296, 124 S.Ct. 2531, 159 L.Ed.2d 403. The court appropriately treated appellant's motion as a petition for post-conviction relief, pursuant to R.C. 2953.21. The court determined that the petition was untimely and that *Blakely* did not create a new right justifying consideration of the petition notwithstanding its untimeliness. Therefore, the court found that it lacked jurisdiction to consider the petition, and denied it.

{¶4} On appeal, appellant advances three assignments of error for our review, as follows:

1. The trial court error (sic) by imposing a nonminimum sentence without specifically finding the factors set forth in O.R.C. 2929.14(B).
2. The trial court error (sic) in ordering consecutive sentence[s] without specifically finding the factors enumerated in O.R.C. 2929.14(E)(4).
 - A) The trial court did not make the findings required by 2929.14(E)(4) to justify the consecutive sentence.
 - B) The trial court failed to give adequate reasons for the consecutive sentence as required by 2929.19(B).
3. The trial court error (sic) in imposing a term of incarceration without properly considering the purposes of felony sentencing pursuant to 2929.11 and 2929.12.

{¶5} Appellant's assignments of error do not challenge the trial court's denial of post-conviction relief, and do not seek to resurrect the argument that his sentences are unlawful under *Blakely*; rather, they challenge the trial court's original imposition of sentence on the grounds that the court failed to adhere to the requirements of then applicable sentencing statutes.

{¶6} Sentencing errors are waived when the defendant fails to take a direct appeal from the sentence. *State v. Henderson* (Dec. 18, 2001), 10th Dist. No. 01AP-414, citing *State v. Combs* (1991), 73 Ohio App.3d 823, 598 N.E.2d 815. See, also, *State v. Szeftcyk* (1996), 77 Ohio St.3d 93, 671 N.E.2d 233. Because appellant failed to take a direct appeal from his sentence, he is precluded from seeking relief based on alleged errors in the sentencing process. Therefore, appellant's assignments of error are not well-taken and are overruled. The judgment of the Franklin County Court of Common Pleas is affirmed.

Judgment affirmed.

KLATT, P.J., and BRYANT, J., concur.
