

IN THE COURT OF APPEALS FOR GREENE COUNTY, OHIO

STATE OF OHIO	:	
Plaintiff-Appellee	:	C.A. CASE NO. 2007 CA 31
v.	:	T.C. NO. 2005 CR 300
MATTHEW VIOLET	:	(Criminal Appeal from Common Pleas Court)
Defendant-Appellant	:	

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OPINION

Rendered on the 21st day of March, 2008.

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Attorney for Plaintiff-Appellee

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MATTHEW VIOLET, #A499-690, Lebanon Correctional Institute, P. O. Box 56, Lebanon, Ohio 45036
Defendant-Appellant

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DONOVAN, J.

{¶ 1} This matter is before the Court on the Notice of Appeal of Matthew Violet, filed April 12, 2007. On July 6, 2005, Violet was found guilty of robbery, in violation of R.C.

2911.02(A)(3), in the Greene County Court of Common Pleas, and he received a four year sentence. We remanded the matter on February 1, 2007, for re-sentencing pursuant to *State v. Foster*, 109 Ohio St.3d 1, and we affirmed Violet's conviction.

{¶ 2} On remand, the trial court sentenced Violet to the same sentence previously imposed. Violet again appealed, and his appointed counsel has filed an *Anders* brief, in which she states that she is "unable to identify any meritorious assignments of error supporting an appeal." Counsel for Violet then asserts one potential assignment of error as follows:

{¶ 3} "APPLYING THE REMEDY FROM STATE V. FOSTER TO VIOLET IS UNCONSTITUTIONAL."

{¶ 4} Violet's counsel suggests that the Supreme Court's decision in *State v. Foster* operates as an ex post facto law, violates due process, violates the rule of lenity and violates the separation of powers doctrine. The State did not file a response.

{¶ 5} As we have previously noted, "the appellate jurisdiction of this court permits us to review 'judgments or final orders of courts of record inferior to the courts of appeals within the district' as well as 'orders or actions of administrative officers or agencies.' Section 3(B)(2), Article IV, Ohio Constitution. Manifestly, decisions of the Supreme Court of Ohio are outside those classifications. Therefore, we lack the jurisdiction to review those decisions for error." *State v. Burkhart*, Champaign App. No. 06CA18, 2007-Ohio-3436.

{¶ 6} We have independently reviewed the entire record before us and we agree with appellate counsel that there is no arguable merit to this appeal. We are satisfied that the sentence imposed upon Violet was lawful and was not an abuse of discretion. The judgment of the trial court is affirmed.

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BROGAN, J. and FAIN, J., concur.

Copies mailed to:

Elizabeth A. Ellis
Brandin D. Marlow
Matthew Violet
Hon. Stephen A. Wolaver