

COURT OF APPEALS
TUSCARAWAS COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO	:	JUDGES:
	:	Hon. William B. Hoffman, P.J.
	:	Hon. Julie A. Edwards, J.
Plaintiff-Appellee	:	Hon. John F. Boggins, J.
	:	
-vs-	:	
	:	Case No. 2001AP120114
JAMES M. BEALL	:	
	:	
Defendant-Appellant	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Appeal from the Tuscarawas County Court of
Common Pleas, Case No. 2001CR080220

JUDGMENT: Dismissed

DATE OF JUDGMENT ENTRY: July 10, 2002

APPEARANCES:

For Plaintiff-Appellee

For Defendant-Appellant

SCOTT J. MASTIN
ASSISTANT PROSECUTOR
125 East High Avenue
New Philadelphia, Ohio 44663
Hoffman, P.J.

PATRICK J. WILLIAMS
ASSISTANT PUBLIC DEFENDER
153 North Broadway
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{¶1} Defendant-appellant James M. Beall appeals the November 14, 2001

Judgment Entry of the Tuscarawas County Court of Common Pleas which sentenced him on four counts of corruption of a minor. Plaintiff-appellee is the State of Ohio.

STATEMENT OF THE FACTS AND CASE

{¶2} On August 27, 2001, the Tuscarawas County prosecutor filed a bill of information alleging appellant had committed four counts of corruption of a minor, in violation of R.C. 2907.04. On September 11, 2001, appellant plead guilty to each charge. Each of the violations were felonies of the fourth degree.

{¶3} The trial court conducted a sentencing hearing on November 5, 2001. At that time, the trial court heard comments from the members of the victims' families and reviewed a presentence investigation report. In a November 14, 2001 Judgment Entry, the trial court sentenced appellant to fifteen months for each of the four counts, to be served consecutively. We note the trial court made all requisite findings for the imposition of consecutive sentences pursuant to R.C. 2929.14(E).

{¶4} It is from this judgment entry appellant prosecutes his appeal, assigning the following error:

{¶5} "THE SENTENCING COURT ERRED IN IMPOSING FOUR CONSECUTIVE FIFTEEN MONTHS SENTENCES UPON THE DEFENDANT AS HE HAD NEVER BEFORE BEEN TO PRISON."

{¶6} We dismiss this case for the reasons set forth in our Opinion in *State v. Andrukat* (Apr. 15, 2002), Stark App. No. 2001CA00324, unreported. Because appellant failed to file a motion for leave to appeal the imposition of consecutive sentences, we are without jurisdiction to review this case.

By: Hoffman, P.J.

Boggins, J. concur

Edwards, J. concurs separately

Topic: Corruption of a Minor - consecutive sentences.

EDWARDS, J. CONCURRING

{¶7} I concur with the disposition of this case by the majority. I disagree with the analysis. The majority states, “[b]ecause appellant failed to file a motion for leave to appeal the imposition of consecutive sentences, we are without jurisdiction to review this case.” I find that statement to be misleading. There are times when an appeal of a consecutive sentence would not require leave to appeal. But the case sub judice is not one of them because the appellant argues that the trial court abused its discretion in sentencing appellant to a lengthy prison term when appellant had not been to prison before.

Julie A. Edwards, J.