

COURT OF APPEALS  
STARK COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-VS-

AARONE RAMSEY

Defendant-Appellant

JUDGES:

Hon. W. Scott Gwin, P.J.  
Hon. William B. Hoffman, J.  
Hon. Julie A. Edwards, J.

Case No. 2007CA00051

O P I N I O N

CHARACTER OF PROCEEDING:

Appeal from the Stark County Court of  
Common Pleas, Criminal Case No.  
2005CR0660

JUDGMENT:

Affirmed

DATE OF JUDGMENT ENTRY:

July 2, 2007

APPEARANCES:

For Plaintiff-Appellee

For Defendant-Appellant

JOHN D. FERRERO  
PROSECUTING ATTORNEY

RONALD MARK CALDWELL  
Assistant Prosecuting Attorney  
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AARONE RAMSEY, PRO SE  
Mansfield Correctional Institution-#490-405  
P.O. Box 788  
Mansfield, Ohio 44901-0788

*Hoffman, J.*

{¶1} Defendant-appellant Aarone Ramsey appeals the February 2, 2007 Judgment Entry entered by the Stark County Court of Common Pleas, which denied his Motion to Vacate Illegal Sentence. Plaintiff-appellee is the State of Ohio.

STATEMENT OF THE CASE<sup>1</sup>

{¶2} On June 3, 2005, the Stark County Grand Jury indicted Appellant on one count of possession of cocaine, in violation of R.C. 2925.11(A)(C)(4)(e), a felony of the first degree. Appellant appeared before the trial court for arraignment and entered a plea of not guilty to the charge. Appellant filed a motion to suppress, which the trial court denied after conducting a hearing. Thereafter, Appellant withdrew his former plea of not guilty and entered a plea of guilty to the charge. The trial court sentenced Appellant to a period of incarceration of four years. Appellant did not take a direct appeal from his conviction and/or sentence.

{¶3} Subsequently, on January 29, 2007, Appellant filed a Motion to Vacate Illegal Sentence, seeking to have his prison term vacated on *Blakely/Foster* grounds. The trial court overruled the motion via Judgment Entry filed February 2, 2007. The trial court found because Appellant's case was not on direct review, the decisions in *Blakely* and *Foster* were inapplicable.

{¶4} It is from this judgment entry Appellant appeals, raising the following assignments of error:

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<sup>1</sup> A Statement of the Facts underlying this case is not necessary for our disposition of appellant's appeal; therefore, such shall not be included herein.

{¶15} “I. THE TRIAL COURT ERRORED [SIC] BY VIOLATING CRIM. R. 2921.45 AND 2921.54 AT THE APPELLANT [SIC] SENTENCING HEARING.

{¶16} “II. THE TRIAL COURT VIOLATED THE APPELLANT [SIC] 6<sup>TH</sup> AND 14<sup>TH</sup> AMENDMENT RIGHTS TO THE UNITED STATES CONSTITUTION BY SENTENCING THE APPELLANT TO A [SIC] ILLEGAL AND UNCONSTITUTIONAL SENTENCE FROM A STATUTE THAT HAS BEEN DECLARED UNCONSTITUTIONAL.”

I, II

{¶17} Both of Appellant’s assignments of error challenge the trial court’s decision overruling his motion to vacate his sentence; therefore, we shall address said assignments of error together. Specifically, Appellant asserts his sentence is unconstitutional in light of *Blakely* and *Foster*. We disagree.

{¶18} In *State v. Foster* (2006), 109 Ohio St.3d 1, 2006-Ohio-856, the Ohio Supreme Court held certain Ohio felony sentencing statutes violate the 6<sup>th</sup> Amendment to the United States Constitution, however, the decision only applies to those cases pending on direct review or not yet final as of the date *Foster* was decided.

{¶19} Because the instant action does not present itself on direct review of Appellant’s conviction and sentence, which occurred in 2005, *Blakely* and *Foster* are inapplicable. Accordingly, we find no reversible error in the trial court’s denial of Appellant’s Motion to Vacate Illegal Sentence.

{¶10} Appellant’s first and second assignments of error are overruled.

{¶11} The judgment of the Stark County Court of Common Pleas is affirmed.

By: Hoffman, J.

Gwin, P.J. and

Edwards, J. concur

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HON. WILLIAM B. HOFFMAN

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HON. W. SCOTT GWIN

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HON. JULIE A. EDWARDS

IN THE COURT OF APPEALS FOR STARK COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-vs-

AARONE RAMSEY

Defendant-Appellant

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JUDGMENT ENTRY

Case No. 2007CA00051

For the reason stated in our accompanying Memorandum-Opinion, the judgment of the Stark County Court of Common Pleas is affirmed. Costs assessed to Appellant.

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HON. WILLIAM B. HOFFMAN

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HON. W. SCOTT GWIN

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HON. JULIE A. EDWARDS