

[Cite as *State v. Smith*, 2003-Ohio-1416.]

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
FULTON COUNTY

State of Ohio

Court of Appeals No. F-02-020

Appellee

Trial Court No. 01-CR-121

v.

William E. Smith

DECISION AND JUDGMENT ENTRY

Appellant

Decided: March 14, 2003

* * * * *

William R. Swigart, Fulton County Prosecuting
Attorney, and Roger D. Nagel, Assistant
Prosecuting Attorney, for appellee.

Carrie J. Nixon, for appellant.

* * * * *

KNEPPER, J.

{¶1} Pursuant to the authority of 6th Dist.Loc.App.R. 12(C), this court sua sponte places this case on the accelerated docket. This is an appeal from the judgment of the Fulton County Court of Common Pleas which sentenced appellant, William E. Smith, on May 29, 2002. Appellant entered a plea of guilty to two counts of rape, each a felony of the first degree, and was sentenced to six years on the first count and five years on the second, to be run consecutively. Appellant timely appealed the judgment entry of the trial court and raises

the following assignments of error:

{¶2} "1. The Fulton County Court of Common Pleas, committed reversible error in applying the standards of R.C. 2929.14(E)(4) when imposing consecutive sentences upon the defendant.

{¶3} "2. Trial court committed error when imposing consecutive sentences totaling eleven (11) years upon the defendant.

{¶4} "3. Trial court committed error when imposing consecutive sentences without stating the reasons for doing so under R.C. 2929.14."

{¶5} The parties agree, and it is clear from the record, that the trial court failed to make all the appropriate findings, as required by R.C. 2929.14(E)(4), in imposing consecutive sentences. Accordingly, we find appellant's first assignment of error well-taken.

{¶6} In his second assignment of error, appellant establishes that he has a right to seek leave to appeal his sentence; however, he fails to set forth any alleged error. Accordingly, there being no basis upon which we could find error, we find appellant's second assignment of error not well-taken.

{¶7} Appellant argues in his third assignment of error that the trial court failed to state its reasons on the record for imposing consecutive sentences, as required by R.C. 2929.19(B)(2)(c). Insofar as this matter must be remanded for resentencing, due to the trial court's failure to make all the appropriate findings pursuant to R.C. 2929.14(E)(4), we find that appellant's third assignment of error is moot and, therefore, found not well-taken.

{¶8} On consideration whereof, this court hereby vacates the judgment entry of

sentencing of the Fulton County Court of Common Pleas. This matter is remanded to the trial court for resentencing in accordance with R.C. Chapter 2929. Costs to appellee.

JUDGMENT VACATED.

Peter M. Handwork, P.J.

JUDGE

Richard W. Knepper, J.

JUDGE

Mark L. Pietrykowski, P.J.
CONCUR.

JUDGE