

[Cite as *State v. Coleman*, 2005-Ohio-5849.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT
COUNTY OF CUYAHOGA
No. 85807

STATE OF OHIO,	:	
Plaintiff-Appellee	:	JOURNAL ENTRY
vs.	:	AND
NINA COLEMAN,	:	OPINION
Defendant-Appellant	:	
	:	
DATE OF ANNOUNCEMENT OF DECISION	:	NOVEMBER 3, 2005
	:	
CHARACTER OF PROCEEDING	:	Criminal appeal from Common Pleas Court
	:	Case No. CR-454195 CR-456822
JUDGMENT	:	AFFIRMED
DATE OF JOURNALIZATION	:	
APPEARANCES:		
For Plaintiff-Appellee:		WILLIAM D. MASON Cuyahoga County Prosecutor OSCAR E. RODRIGUEZ Assistant County Prosecutor Justice Center - 8 th Floor 1200 Ontario Street Cleveland, Ohio 44113
For Defendant-Appellant:		ROBERT L. TOBIK Chief Public Defender NOELLE A. POWELL Assistant Public Defender 1200 West Third Street, N.W.

100 Lakeside Place
Cleveland, Ohio 44113

MARY EILEEN KILBANE, J.:

{¶ 1} Nina Coleman appeals from a trial court order sentencing her to serve two twelve-month concurrent sentences on charges of theft and grand theft motor vehicle. She claims that the court violated the United States Supreme Court's holding in *Blakely v. Washington* (2004), 542 U.S. 296, 124 S.Ct. 2531, when it sentenced her to more than the minimum sentence. We affirm.

{¶ 2} On April 15, 2004, Coleman was indicted in case number CR450895 on one count of receiving stolen property, in violation of R.C. 2913.51. On July 15, 2004, and while awaiting trial on the pending charges, Coleman was indicted in case number CR454195 on one count of theft and one count of aggravated theft, both in violation of R.C. 2913.02. On September 28, 2004, Coleman was again indicted in case number CR456822 on one count of grand theft motor vehicle, in violation of R.C. 2913.02.

{¶ 3} Coleman entered a plea agreement with the state whereby the trial court would nolle the charges of receiving stolen property in case number CR450895 in exchange for a guilty plea to one count of theft in case number CR454195 and one count of grand theft motor vehicle in case number CR456822. The trial court accepted Coleman's plea and imposed a twelve-month sentence in each case, sentences to run concurrent.

{¶ 4} She appeals from this sentence in a single assignment of error which states:

"THE SENTENCE IMPOSED AGAINST MS. COLEMAN, WHICH INVOLVED SENTENCING ENHANCEMENTS, NOT FOUND BY A JURY, IS UNCONSTITUTIONAL UNDER THE HOLDING OF THE UNITED STATES SUPREME COURT IN BLAKELY V. WASHINGTON (2004), 124 S.C.T. 2531."

{¶ 5} Coleman pled guilty to two fourth degree felonies. The possible sentence for a fourth degree felony is six to eighteen months in prison and up to a \$5,000 fine. Coleman received two twelve-month concurrent sentences. Coleman contends on appeal that the trial court's imposition of anything other than the minimum sentence violates *Blakely*, supra. However, this court previously addressed the issue of nonminimum sentences in the en banc decision of *State v. Atkins-Boozer*, Cuyahoga App. No. 84151, 2005-Ohio-2666. In *Atkins-Boozer*, this Court held that R.C. 2929.14(B), which governs the imposition of more than minimum sentences, does not implicate the Sixth Amendment as construed in *Blakely*.

{¶ 6} For these reasons, Coleman's sole assignment of error lacks merit.

{¶ 7} The judgment of the trial court is affirmed.

It is ordered that appellee recover of appellant costs herein taxed.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Cuyahoga County Common Pleas Court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

MARY EILEEN KILBANE
JUDGE

ANN DYKE, P.J., And

MICHAEL J. CORRIGAN, J., CONCUR

N.B. This entry is an announcement of the court's decision. See App.R. 22(B), 22(D) and 26(A); Loc. App.R. 22. This decision will be journalized and will become the judgment and order of the court pursuant to App.R. 22(E), unless a motion for reconsideration with supporting brief, per App.R. 26(A) is filed within ten (10) days of the announcement of the court's decision. The time period for review by the Supreme Court of Ohio shall begin to run upon the journalization of this court's announcement of decision by the clerk per App.R. 22(E). See, also, S.Ct.Prac.R. II, Section 2(A)(1).