

[Cite as *State v. Brown*, 2006-Ohio-152.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 86128

STATE OF OHIO	:	
	:	
Plaintiff-appellee	:	
	:	JOURNAL ENTRY
vs.	:	and
	:	OPINION
JAMES BROWN	:	
	:	
Defendant-appellant	:	

DATE OF ANNOUNCEMENT	:	
OF DECISION	:	JANUARY 12, 2006

CHARACTER OF PROCEEDING	:	Criminal appeal from Cuyahoga
	:	County Common Pleas Court
	:	Case No. CR-456517

JUDGMENT	:	DISMISSED.
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DATE OF JOURNALIZATION	:	
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APPEARANCES:

For plaintiff-appellee:	WILLIAM D. MASON
	Cuyahoga County Prosecutor
	JON W. OEBKER, Assistant
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	1200 Ontario Street
	Cleveland, Ohio 44113

For defendant-appellant:	SUSAN J. MORAN
	Attorney at Law
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KENNETH A. ROCCO, J.:

{¶ 1} Defendant appeals from his conviction and sentence for possession of cocaine and possession of crack cocaine. He argues that the court erred by imposing the maximum sentence of one year imprisonment for possession of cocaine. The court's judgment is not final. Therefore, we must dismiss this appeal.

{¶ 2} Appellant was charged in a two-count indictment filed September 20, 2004, with possession of cocaine in an amount less than five grams, and possession of crack cocaine in an amount less than one gram. At a hearing held February 9, 2005, he entered a no contest plea to both of these charges, as well as two charges in another case. The court found him guilty of drug possession as charged in both counts in this case. It then sentenced him to one year of imprisonment on the first count, with credit for time served, "and the sentences are suspended on the rest of the counts."

{¶ 3} The court only imposed sentence on one of the two charges upon which appellant was found guilty in this case.¹ Crim.R. 32(C) imposes a mandatory duty to set forth the plea, verdict or finding, and sentence for each and every charge prosecuted. "[A] trial

¹Although the court stated that it was suspending sentence on the remaining counts, the court obviously cannot suspend a sentence that has not been imposed. Also cf. *State v. Smith* (1989), 42 Ohio St.3d 60 ("the courts of common pleas 'do not have the inherent power to suspend execution of a sentence in a criminal case and may order such suspension only as authorized by statute.'")

court's ruling is not a final appealable order when there is no sentence imposed for a charge for which there is a finding of guilty." *State v. Connor* (Oct. 31, 1996), Cuyahoga App. No. 70057; also see *State v. Collins* (Oct. 18, 2001), Cuyahoga App. No. 79064. Therefore, we must dismiss this appeal.

Appeal dismissed.

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This cause is dismissed.

It is, therefore, considered that said appellee recover of said appellant its costs herein.

It is ordered that a special mandate be sent to said 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.

JUDGE
KENNETH A. ROCCO

ANN DYKE, A.J. and

PATRICIA ANN BLACKMON, J. CONCURS

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).