

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 90603

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

EVERETT GRIDER

DEFENDANT-APPELLANT

JUDGMENT:
AFFIRMED

Criminal Appeal from the
Cuyahoga County Common Pleas Court
Case No. CR-363298

BEFORE: Sweeney, A.J., Kilbane, J., and Blackmon, J.

RELEASED: October 2, 2008

JOURNALIZED:

[Cite as *State v. Grider*, 2008-Ohio-5132.]

ATTORNEY FOR APPELLANT

Charles H. Bragg
Standard Building, Suite 1520
1370 Ontario Street
Cleveland, Ohio 44113

ATTORNEYS FOR APPELLEE

William D. Mason
Cuyahoga County Prosecutor
BY: Thorin Freeman
Assistant Prosecuting Attorney
1200 Ontario Street
Cleveland, Ohio 44113

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).

[Cite as *State v. Grider*, 2008-Ohio-5132.]
JAMES J. SWEENEY, A.J.:

{¶ 1} Defendant-appellant, Everett Grider, appeals from the imposition of mandatory postrelease control as part of his sentence following his convictions for rape, aggravated burglary, and kidnapping. For the reasons that follow, we affirm.

{¶ 2} Appellant’s sole assignment of error provides:

{¶ 3} “I. R.C. 2967.28 violates the double jeopardy clauses of the United States and Ohio Constitutions.”

{¶ 4} Appellant contends that R.C. 2967.28 violates double jeopardy because it provides for the imposition of an additional prison term at a later date for an offender who has “already served his entire prison term for the same criminal conviction.” The Ohio Supreme Court has addressed this argument and held, “R.C. 2967.28(F)(4), which specifies that a person released on postrelease control who violates conditions of that postrelease control faces a term of incarceration for the violation as well as criminal prosecution for the conduct that was the subject of the violation as a felony in its own right, does not violate the Double Jeopardy Clause of the United States or Ohio Constitution.” *State v. Martello*, 97 Ohio St.3d 398, 2002-Ohio-6661, syllabus. Accordingly, this assignment of error is overruled.

Judgment affirmed.

It is ordered that appellee recover from appellant its 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 Court of Common Pleas to carry this judgment into execution. The defendant's conviction having been affirmed, any bail pending appeal is terminated. Case remanded to the trial court for execution of sentence.

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

JAMES J. SWEENEY, ADMINISTRATIVE JUDGE

MARY EILEEN KILBANE, J., and
PATRICIA A. BLACKMON, J., CONCUR