

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
**No. 90580**

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**STATE OF OHIO**

PLAINTIFF-APPELLEE

vs.

**LOUIS ANTENORI**

DEFENDANT-APPELLANT

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**JUDGMENT:**  
**AFFIRMED**

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Criminal Appeal from the  
Cuyahoga County Court of Common Pleas  
Case No. CR-496880

**BEFORE:** Sweeney, A.J., Cooney, J., and Rocco, J.

**RELEASED:** November 20, 2008

**JOURNALIZED:**

[Cite as *State v. Antenori*, 2008-Ohio-5987.]

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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. Antenori*, 2008-Ohio-5987.]  
JAMES J. SWEENEY, A.J.:

{¶ 1} Defendant-appellant, Louis Antenori (“defendant”), appeals from his multiple convictions and consecutive sentences for felonious assault and involuntary manslaughter. For the reasons that follow, we affirm.

{¶ 2} Defendant was initially indicted on charges of murder and felonious assault. Upon agreement of the State, the murder count was amended to involuntary manslaughter in violation of R.C. 2903.04, to which defendant pled guilty. Defendant also pled guilty to a separate count of felonious assault in violation of R.C. 2903.11(A)(1). The court imposed an 8-year sentence for the felonious assault conviction and 10 years for the involuntary manslaughter conviction to be served consecutively, totaling an 18-year sentence.

{¶ 3} Defendant now appeals raising two assignments of error for our review.

{¶ 4} “I. The trial court erred by ordering convictions for separate counts of involuntary manslaughter and felonious assault to be served consecutively because the offenses are allied offenses pursuant to R.C. 2941.25 and they are part of the same transaction under R.C. 2929.14.”

{¶ 5} Defendant entered into a plea agreement whereby the State would reduce the murder charge against him to involuntary manslaughter on the condition he pled guilty to it and the separate felonious assault charge. Defendant proceeded to voluntarily enter separate guilty pleas to involuntary manslaughter and felonious assault.

{¶ 6} A plea of guilty waives all non-jurisdictional defects. *State v. Watson* (April 8, 1976), Cuyahoga App. No. 34664, citing *Ross v. Court* (1972), 30 Ohio St.2d 323, 324 (“[a]

defendant who enters a voluntary plea of guilty while represented by competent counsel waives all non-jurisdictional defects in prior stages of the proceedings.”); see, also, *State v. Hooper*, Columbiana App. No. 03 CO 30, 2005-Ohio-7084, ¶7-17 (defendant who enters guilty plea to two distinct offenses waives argument that offenses are, in reality, allied offenses of similar import). Accordingly, by voluntarily entering his guilty pleas to two separate offenses, defendant waived any argument that the same constituted allied offenses of similar import.

{¶ 7} Assignment of Error I is overruled.

{¶ 8} “II. The trial court erred by ordering appellant to serve a sentence which is contrary to law.”

{¶ 9} Defendant argues that the maximum consecutive sentence imposed upon him was contrary to law. He maintains that the sentence is excessive and was an abuse of discretion.

{¶ 10} When reviewing a sentence imposed by the trial court, we are to “apply a two-step approach.” *State v. Kalish*, Slip Op. No. 2008-Ohio-4912, ¶4.<sup>1</sup> Specifically, appellate courts are directed to “examine the sentencing court's compliance with all applicable rules and statutes in imposing the sentence to determine whether the sentence is clearly and

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<sup>1</sup>We recognize *Kalish* is merely persuasive and not necessarily controlling because it has no majority. The Supreme Court split over whether we review sentences under an abuse-of-discretion standard in some instances.

convincingly contrary to law. If this first prong is satisfied, the trial court's decision shall be reviewed under an abuse-of-discretion standard.” Id.

{¶ 11} During sentencing, trial courts are no longer required to engage in judicial fact-finding. *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856; see, also, *State v. Payne*, 114 Ohio St.3d 502, 2007-Ohio-4642 (“*Foster* gives judges full discretion to impose a sentence within the statutory range without having to ‘navigate a series of criteria that dictate the sentence.’”) Nonetheless, trial courts must still consider R.C. 2929.11 and 2929.12 when sentencing an offender. Id. at ¶13.

{¶ 12} Defendant does not dispute that the sentence imposed by the trial court fell within the statutory range for the crimes to which he pled guilty. While defendant generally maintains that the maximum, consecutive sentence is disproportionate to the crimes he committed, the record does not support his position. Although defendant admitted his crimes and expressed remorse, the record establishes that the victim died as a result of defendant hitting her. Defendant stated he hit the victim in self-defense as she was biting his tongue off. He also claimed the two had a sexual relationship. But, the court also heard statements from the victim’s family members who challenged defendant’s version of events and suggested the defendant was attempting to force the victim to do something against her will. The record contains a statement that the victim was heard yelling “Get off of me.” The victim had multiple contusions and abrasions to her face, leg, and neck. Defendant also had a criminal record, including arrests and a conviction for assault, a conviction for attempted

felonious assault, prior incarceration, a parole violation, domestic violence charges, and a domestic violence conviction.

{¶ 13} A review of the record indicates that the maximum, consecutive sentence imposed upon the defendant is neither clearly and convincingly contrary to law nor was it an abuse of discretion.

{¶ 14} Assignment of Error II 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.

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JAMES J. SWEENEY, ADMINISTRATIVE JUDGE

COLLEEN CONWAY COONEY, J., and  
KENNETH A. ROCCO, J., CONCUR