

[Cite as *State v. Ramos*, 2009-Ohio-3064.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 92357

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

FRANK RAMOS, JR.

DEFENDANT-APPELLANT

**JUDGMENT:
AFFIRMED**

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-510058

BEFORE: Jones, J., Kilbane, P.J., and Stewart, J.

RELEASED: June 25, 2009

JOURNALIZED:

ATTORNEY FOR APPELLANT

Eric Norton
The Norton Law Firm Co., LPA
12434 Cedar Road, Suite 6
Cedar-Grandview Building
Cleveland Hts., Ohio 44106

ATTORNEYS FOR APPELLEE

William D. Mason
Cuyahoga County Prosecutor

BY: Marc D. Bullard
Assistant Prosecuting Attorney
The Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

N.B. This entry is an announcement of the court's decision. See App.R. 22(B) 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(C) 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(C). See, also, S.Ct. Prac.R. II, Section 2(A)(1).

LARRY A. JONES, J.:

{¶ 1} Defendant-appellant, Frank Ramos (“Ramos”), appeals the trial court’s imposition of a fine in his criminal case. Finding no merit to the appeal, we affirm the judgment of the trial court.

{¶ 2} In 2008, Ramos was charged with three counts of felonious assault against a peace officer with repeat violent offender and notice of prior conviction specifications and two counts of failure to comply with the order or signal of a police officer. The State alleged that Ramos led multiple police departments on a twenty-mile, high-speed chase through the city and suburbs of Cleveland in April 2008. During the pursuit, Ramos’s speed exceeded 70 miles per hour on city streets and he ended up crashing into a police car before being caught by officers of the Cleveland Police Department.

{¶ 3} Ramos retained counsel and was able to negotiate a plea agreement with the State. Ramos agreed to plead guilty to one count of felonious assault with specifications, one count of felonious assault without specifications, and one count of failure to comply. Ramos, who has a lengthy criminal record, also agreed to a ten-year prison sentence.

{¶ 4} After the plea, the trial court proceeded to sentencing. Ramos requested the court to declare him indigent and waive fines and costs. Ramos claimed that he had no assets, was unemployed, and that any money he earned in prison would be best served paying restitution for the wrecked police cruiser. The trial court proceeded to sentence Ramos to ten years in prison and ordered him to

pay \$8,439 in restitution and a \$25,000 fine. Ramos's counsel filed a "motion for reconsideration" of the fine and then filed a notice of appeal.

{¶ 5} In his appeal, Ramos raises one assignment of error for our review, in which he argues that the trial court abused its discretion in imposing a \$25,000 fine.

{¶ 6} R.C. 2929.19(B)(6) provides that before a trial court imposes a financial sanction upon a defendant, "the court shall consider the offender's present and future ability to pay the amount of the sanction or fine." But, "there are no express factors that must be taken into consideration or findings regarding the offender's ability to pay that must be made on the record." *State v. Martin*, 140 Ohio App.3d 326, 338, 747 N.E.2d 318, 2000-Ohio-1942.

{¶ 7} Even though Ramos argued he had no job or assets, Ohio law does not prohibit a court from imposing a fine on an indigent defendant. *State v. Roark*, Cuyahoga App. No. 84992, 2005-Ohio-1980. Except for violations "of any provisions of Chapter 2925., 3719., or 4729. of the Revised Code," a sentencing court is not barred by statute from imposing a fine upon an indigent person. See R.C. 2929.18(B)(1); *State v. Gipson* (1988), 80 Ohio St.3d 626, 1998-Ohio-659, 687 N.E.2d 750. The Revised Code simply requires the sentencing court to "consider the offender's ability to pay." R.C. 2929.19(B)(6).

{¶ 8} Ramos cites to our decision in *State v. Cosme*, Cuyahoga App. No. 90075, 2008-Ohio-2811, to support his position that the fine should be reversed. In *Cosme*, the defendant was ordered to pay restitution to two victims. We reversed the trial court's decision, finding that neither the record nor the judgment entry

indicated that the court considered the defendant's present or future ability to pay. In this case, it is apparent from the record that the court did consider Ramos's present and future ability to pay the fine; the court was just not persuaded by his argument that he could not pay. We also note that Ramos retained counsel for both his lower court case and the instant appeal.

{¶ 9} Ramos next argues that the \$25,000 fine was in excess of the statutory maximum. We disagree. R.C. 2929.18(A)(3) allows for fines up to \$20,000 for a first degree felony and \$10,000 for a third-degree felony. There is no provision in the statute that limits a court from imposing multiple or aggregate fines; in fact, R.C. 2929.18 expressly states that a court "may sentence the offender to any financial sanction or combination of financial sanctions *** ." Since Ramos pled guilty to two first-degree felonies and one third-degree felony, the statutory maximum fine was \$50,000, twice the amount the court actually imposed. Therefore, we conclude the trial court did not abuse its discretion in imposing a \$25,000 fine.

{¶ 10} Accordingly, we overrule Ramos's sole assignment of error.

Judgment 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 common pleas court 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.

LARRY A. JONES, JUDGE

MARY EILEEN KILBANE, P.J., and
MELODY J. STEWART, J., CONCUR