

STATE OF OHIO	)	IN THE COURT OF APPEALS
	)ss:	NINTH JUDICIAL DISTRICT
COUNTY OF SUMMIT	)	

STATE OF OHIO	C. A. No. 22451
Appellee	
v.	APPEAL FROM JUDGMENT
GERALD T. SHEAFFER	ENTERED IN THE
Appellant	COURT OF COMMON PLEAS
	COUNTY OF SUMMIT, OHIO
	CASE No. CR 04 01 0046(F)

DECISION AND JOURNAL ENTRY

Dated: September 28, 2005

This cause was heard upon the record in the trial court. Each error assigned has been reviewed and the following disposition is made:

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BATCHELDER, Judge.

{¶1} Appellant Gerald T. Sheaffer appeals his sentence from the Summit County Court of Common Pleas for illegal manufacture of drugs. We affirm.

{¶2} Mr. Sheaffer was convicted of illegal manufacture of drugs in violation of R.C. 2925.04(A), a second degree felony; aggravated possession of drugs in violation of R.C. 2925.11(A), a second degree felony; and illegal assembly or possession of chemicals for the manufacture of drugs in violation of R.C. 2925.041, a third degree felony. The court sentenced him to concurrent non-minimum prison terms and he timely appealed, asserting one assignment of error.

**Assignment of Error**

“THE TRIAL COURT ERRED IN SENTENCING APPELLANT TO MORE-THAN-MINIMUM TERMS OF IMPRISONMENT IN VIOLATION OF HIS CONSTITUTIONAL RIGHT TO TRIAL BY JURY.”

{¶3} Mr. Sheaffer contends that the trial court’s imposition of non-minimum sentences constitutes a violation of *Blakely v. Washington* (2004), 542 U.S. 296, 159 L.Ed.2d 403. However, *Blakely* does not apply to Ohio’s statutory sentencing scheme. *State v. McClanahan*, 9th Dist. No. 22277, 2005-Ohio-2975, at ¶8. This assignment of error is overruled. Mr. Sheaffer’s sentence in the Summit County Court of Common Pleas is affirmed.

Judgment affirmed.

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The Court finds that there were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Summit, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(E). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this

judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

Exceptions.

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WILLIAM G. BATCHELDER  
FOR THE COURT

CARR, P. J.  
MOORE, J.  
CONCUR

APPEARANCES:

NICHOLAS SWYRYDENKO, Attorney at Law, Suite 105, 1000 S. Cleveland-Massillon Rd., Akron, Ohio 44333, for Appellant.

SHERRI BEVAN WALSH, Prosecuting Attorney and RICHARD S. KASAY Assistant Prosecuting Attorney, Summit County Safety Building, 53 University Avenue, 6<sup>th</sup> Floor, Akron, Ohio 44308, for Appellee.