

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
HIGHLAND COUNTY

STATE OF OHIO,	:	
Plaintiff-Appellee,	:	CASE NO. 24CA18
v.	:	
TY T. ERSKINE,	:	DECISION & JUDGMENT ENTRY
Defendant-Appellant.	:	

APPEARANCES:

Ty. T. Erskine, #A798368, Orient, Ohio, pro se.

Anneka P. Collins, Highland County Prosecuting Attorney, and Adam J. King, Highland County Assistant Prosecuting Attorney, Hillsboro, Ohio, for appellee.

CRIMINAL APPEAL FROM COMMON PLEAS COURT
DATE JOURNALIZED: 4-14-25
ABELE, J.

{¶1} This is an appeal concerning sentences the Highland County Common Pleas Court imposed on Ty T. Erskine, the defendant below and appellant herein. Appellant raises one assignment of error for review:

“DID THE TRIAL COURT ERROR (SIC) WHEN IT ORDERED APPELLANTS (SIC) MANDATORY SENTENCES TO BE SERVED AFTER HIS NON MANDATORY SENTENCES?”

{¶2} On April 4, 2024, appellant entered guilty pleas to multiple serious felony offenses, including: (1) R.C. 2925.03(A) (2)

aggravated trafficking in methamphetamine; (2) R.C. 2941.14.17 forfeiture specification; (3) 2941.331(B) failure to comply with order or signal of a police officer; (4) R.C. 2925.03(A)(1) aggravated trafficking in a fentanyl related compound in the vicinity of a school; and (5) R.C. 2925.03(A)(1) aggravated trafficking in methamphetamine in the vicinity of a school. The end result is that the trial court sentenced appellant to serve one definite four-year non-mandatory prison term consecutively to another three-year to four-and-a-half-year indefinite prison term, with three years of that sentence being mandatory.

{¶3} On September 20, 2024, appellant filed a "Motion for Correction of Calculated Sentence Nunc Pro Tunc" and asserted that the Bureau of Sentence Computation is improperly requiring appellant to serve his definite four-year non-mandatory sentence prior to serving his indefinite three-year to four-and-a-half-year sentence, with three years being mandatory. After the trial court denied appellant's request, appellant filed a timely notice of appeal.

{¶4} In his sole assignment of error, appellant asserts that the trial court somehow improperly "ordered defendant to serve his non-mandatory sentences before serving his mandatory sentence."

Initially, we point out that appellant does not point to any language in the trial court's sentencing order that could be construed as a specific requirement that one sentence be served prior to the other sentence.

{15} Appellee states that in Trial Court Case No. 22CR034, appellant pleaded guilty to Counts One and Five for the offenses of (1) Aggravated Trafficking in a Fentanyl Related Compound in the vicinity of a school violation of R.C. 2925.03(A)(1), a third-degree felony, and (2) Aggravated Trafficking in Methamphetamine in the Vicinity of a School violation of R.C. 2925.03(A)(1), a first-degree felony. On Count One, the trial court sentenced appellant to serve a definite prison term, and on Count Five the court ordered appellant to serve three years (mandatory) to four-and-a-half years, with the sentences to be served consecutively to one another. Once again, we point out that the trial court did not specify any particular order that the sentences should be served.

{16} Appellee cites a statute that speaks to how multiple felony sentences should be served. R.C. 2929.14(C)(10) provides:

When a court sentences an offender to a non-life felony indefinite term, any definite prison term or mandatory definite prison term previously or subsequently imposed on the offender in addition to that indefinite sentence that is required to be served consecutively to the indefinite sentence shall be served prior to the indefinite sentence.

Thus, the statute indicates that a definite prison sentence should be served prior to an indefinite sentence. See, also *Chester v. Black*, 2024-Ohio-1558 (5th Dist.).

{¶7} The question appellant frames in this appeal is whether the trial court erred in some manner when it imposed appellant's sentence. After our review, we must conclude that the court did not err. Furthermore, it appears that appellant's sentences are being served in accordance with R.C. 2929.14.

{¶8} Accordingly, based upon the foregoing reasons, we overrule appellant's assignment of error and affirm the trial court's judgment.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the judgment be affirmed. Appellee shall recover of appellant the 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 Highland County Common Pleas Court to carry this judgment into execution.

If a stay of execution of sentence and release upon bail has been previously granted by the trial court or this court, it is temporarily continued for a period not to exceed 60 days upon the bail previously posted. The purpose of a continued stay is to allow appellant to file with the Supreme Court of Ohio an application for a stay during the pendency of the proceedings in that court. If a stay is continued by this entry, it will terminate at the earlier of the expiration of the 60-day period, or the failure of the appellant to file a notice of appeal with the Supreme Court of Ohio in the 45-day appeal period pursuant to Rule II, Sec. 2 of the Rules of Practice of the Supreme Court of Ohio. Additionally, if the Supreme Court of Ohio dismisses the appeal prior to expiration of 60 days, the stay will terminate as of the date of such dismissal.

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

Smith, P.J. & Wilkin, J.: Concur in Judgment & Opinion

For the Court

BY: _____ Peter B. Abele, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.