

[Cite as *State v. Logsdon*, 2006-Ohio-6835.]

IN THE COURT OF APPEALS FOR CLARK COUNTY, OHIO

STATE OF OHIO	:	
	:	
Plaintiff- Appellee	:	C.A. Case No. 2005-CA-67
vs.	:	T.C. Case No. 05-CR-283
	:	
ROBERT R. LOGSDON	:	(Criminal Appeal from Common
	:	Pleas Court)
	:	
Defendant-Appellant	:	

.....

OPINION

Rendered on the 22nd day of December, 2006.

.....

STEPHEN A. SCHUMAKER, Prosecuting Attorney, By: WILLIAM H. LAMB, Assistant Prosecuting Attorney, Atty. Reg. #0051808, 50 E. Columbia Street, P.O. Box 1608, Springfield, Ohio 45501
Attorneys for Plaintiff-Appellee

JUSTIN A. DILLMORE, Atty. Reg. #0079624, One S. Main Street, Suite 1800, Dayton, Ohio 45402
Attorney for Defendant-Appellant

.....

VALEN, J. (By Assignment)

{¶ 1} Robert R. Logsdon appeals from his conviction and sentence in Clark County Common Pleas Court on one count of involuntary manslaughter and one count of tampering with evidence.

{¶ 2} In his two assignments of error, Logsdon contends the trial court erred by

imposing more than the statutory minimum sentences and by ordering his sentences to be served consecutive to the sentence he received in a companion case.¹

{¶ 3} Logsdon's only argument on appeal is that the trial court's imposition of more-than-minimum and consecutive sentences violates *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, because the trial court itself made certain statutorily required findings of fact to support the sentences.²

{¶ 4} “*Foster* established a bright-line rule that any pre-*Foster* sentence to which the statutorily required findings of fact applied (i.e., more-than-minimum, maximum, and consecutive sentences), pending on direct review at the time that *Foster* was decided, must be reversed, and the cause remanded for re-sentencing in accordance with *Foster*, if the sentence is a subject of the appeal.” *State v. Boyd*, Montgomery App. No. 21372, 2006-Ohio-6299, ¶28.

{¶ 5} The State concedes that *Foster* applies here and that Logsdon was sentenced in violation of the rule articulated in that case. We agree. Accordingly, we sustain Logsdon's assignments of error, reverse the trial court's judgment, and remand

¹The record reflects that on April 28, 2005, the trial court sentenced Logsdon on the convictions for involuntary manslaughter and tampering with evidence in case number 05-CR-0283. During the same hearing, the trial court sentenced him on a related receiving stolen property conviction in case number 03-CR-1042. Both cases involved the same criminal episode, and the trial court ordered each of the sentences to be served consecutively.

²In addition to the appellate brief filed by Logsdon's court-appointed counsel, we note that Logsdon filed his own pro se brief raising essentially the same *Foster* issues. Because Logsdon is represented by counsel, however, we will not specifically address his pro se brief. *State v. Shaw*, Clark App. No. 2005-CA-115, 2006-Ohio-5587, ¶3.

the cause for resentencing consistent with *Foster*.

.....

BROGAN, J., and WOLFF, J., concur.

(Hon. Anthony Valen, retired from the Twelfth Appellate District, sitting by assignment of the Chief Justice of the Supreme Court of Ohio).

Copies mailed to:

William H. Lamb
Justin A. Dillmore
Hon. Richard J. O'Neill