

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

State of Ohio

Court of Appeals No. L-09-1006

Appellee

Trial Court No. CR-200802492

v.

Terrance Simmons

DECISION AND JUDGMENT

Appellant

Decided: May 28, 2010

* * * * *

Julia R. Bates, Lucas County Prosecuting Attorney, and
Jeffrey D. Lingo, Assistant Prosecuting Attorney, for appellee.

Ann M. Baronas, for appellant.

* * * * *

HANDWORK, J.

{¶ 1} This is an appeal from a sentence imposed by the Lucas County Court of Common Pleas. Pursuant to 6th Dist.Loc.App.R. 12(A), this cause assigned to this court's accelerated calendar.

{¶ 2} On December 19, 2008, appellant, Terrance Simmons, entered a plea of no contest to one count of kidnapping in violation of R.C. 2905.01(A) and (C), a felony of the first degree, and to one count of attempted rape in violation of R.C. 2923.02 and 2907.01(A)(2) and (B). He was found guilty on both counts by the common pleas court. On January 6, 2009, the lower court sentenced appellant to seven years in prison for the conviction on the count of kidnapping and to a mandatory eight years in prison on the count of attempted rape. The court further ordered that the two sentences be served consecutively. Appellant sets forth the following assignment of error:

{¶ 3} "The trial court erred in sentencing appellant to consecutive sentences."

{¶ 4} Appellant contends that the United States Supreme Court's decision in *Oregon v. Ice* (2009), 129 S.Ct. 711, resurrected the requirement that a trial court make certain factual findings when imposing consecutive sentences on a defendant. This court has previously addressed this issue and determined that it lacked merit. See *State v. Finn*, 6th Dist.Nos. L-09-1162, L-09-1163, 2010-Ohio-2004, ¶ 10, citing *State v. Elmore*, 122 Ohio St.3d 472, 2009-Ohio-3478, ¶ 8 (decided after *Oregon v. Ice*, supra, and reiterates that, pursuant to *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, a trial court is not required to make factual findings when imposing consecutive sentences.) See, also, *State v. Gaines*, 6th Dist. No. WD-08-058, 2010-Ohio-91, ¶ 32. Accordingly, and upon reviewing appellant's sentence under an abuse of discretion standard, see *Foster* at

paragraph four of the syllabus, we find appellant's sole assignment of error not well-taken.

{¶ 5} The judgment of the Lucas County Court of Common Pleas is affirmed.

Appellant is ordered to pay the costs of this appeal pursuant to App.R. 24(A).

JUDGMENT AFFIRMED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4.

Peter M. Handwork, J.

JUDGE

Arlene Singer, J.

JUDGE

Thomas J. Osowik, P.J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.