

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

State of Ohio

Court of Appeals No. L-08-1190

Appellee

Trial Court No. CR08-1038

v.

Floyd D. Young

DECISION AND JUDGMENT

Appellant

Decided: August 20, 2010

* * * * *

Timothy Young, Ohio Public Defender, and
Claire R. Cahoon, Assistant Public Defender, for appellant.

Julia R. Bates, Lucas County Prosecuting Attorney, and
Brenda J. Majdalani, Assistant Prosecuting Attorney, for appellee.

* * * * *

SINGER, J.

{¶ 1} Appellant appeals his sentence following a conviction for possession of a weapon under disability. Pursuant to 6th Dist.Loc.App.R. 12, we sua sponte transfer this matter to our accelerated docket and, hereby, render our decision.

{¶ 2} Appellant, Floyd D. Young, was convicted of possession of a weapon under a disability with a firearm specification in the Lucas County Court of Common Pleas. The court sentenced him to a three year term of incarceration for the principal offense and an additional three years for the specification. The court ordered the terms served consecutively.

{¶ 3} On direct appeal, appellant's counsel raised no assignment of error relative to sentencing. Appellant's conviction was affirmed. *State v. Young*, 6th Dist.No L-08-1190, 2009-Ohio-6334.

{¶ 4} Appellant subsequently, with new counsel, made a timely application for reopening pursuant to App.R. 26(B), arguing that his original appellate counsel was ineffective for failing to raise irregularities in the sentence imposed upon him. We granted appellant's application. *State v. Young* (Apr. 5, 2010), 6th Dist.No L-08-1190.

{¶ 5} On reopening, appellant asserts that R.C. 2929.14(D)(1)(e) prohibits the imposition of sentences for both having weapons under disability and a firearm specification absent certain exceptions not applicable here. In a second assignment of error, appellant suggests that his original appellant counsel was ineffective for failing to raise the issue.

{¶ 6} In response, the state concedes the issue. Accordingly, both of appellant's assignments of error are well-taken.

{¶ 7} On consideration whereof, the judgment of the Lucas County Court of Common Pleas as it relates to sentencing is reversed. The matter is remanded to said court for resentencing. It is ordered that appellee pay court costs of this appeal pursuant to App.R. 24.

JUDGMENT REVERSED.

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

Mark L. Pietrykowski, 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>.