

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio, :
 :
 Plaintiff-Appellee, :
 :
 v. : No. 14AP-460
 : (C.P.C. No. 10CR-652)
 Jeffrey J. Rivera, :
 : (REGULAR CALENDAR)
 Defendant-Appellant. :

D E C I S I O N

Rendered on May 7, 2015

Ron O'Brien, Prosecuting Attorney, and *Steven L. Taylor*, for appellee.

Scott & Nolder Co., LPA, and *Joseph E. Scott*, for appellant.

APPEAL from the Franklin County Court of Common Pleas

TYACK, J.

{¶ 1} Counsel for Jeffrey J. Rivera has filed an appeal on his behalf. Counsel for Rivera has also filed a brief citing *Anders v. California*, 386 U.S. 738 (1967).

{¶ 2} Counsel has asked this appellate court to consider the following issues which we will treat as a single assignment of error:

(1) [W]hether the trial court erred by applying consecutive sentences to Mr. Rivera on the basis of "protecting the public," when it is undisputed that Mr. Rivera will be immediately deported to Honduras upon the completion of his sentence; and (2) whether the trial court adequately articulated on the record its reasons for applying consecutive sentences to Mr. Rivera.

{¶ 3} The State of Ohio has filed a reply brief in which it agrees that the trial court acted appropriately.

{¶ 4} This is the third appeal based upon the rapes and kidnapping of S.K. by Rivera and a co-defendant. The facts of the crimes are set forth in our prior opinions. See *State v. Rivera*, 10th Dist. No. 10AP-945, 2012-Ohio-1915 and *State v. Vargas*, 10th Dist. No. 10AP-952, 2012-Ohio-6368.

{¶ 5} In brief, Rivera and his co-defendant raped S.K. repeatedly over an extended period of time. The sentencing statutes for the State of Ohio call for at least the 16-year sentence assessed by the trial court here. The trial court adequately complied with R.C. 2929.14 during the third sentencing hearing during the most recent sentencing hearing.

{¶ 6} In the recent case of *State v. Bonnell*, 140 Ohio St.3d 209, 2014-Ohio-3177, the Supreme Court of Ohio ruled that a trial court judge must do more than make the findings required by R.C. 2929.14 in open court. The trial court must journalize those findings in its sentencing entry. As noted above, the trial court judge made the required findings in open court, but did not repeat those findings in the sentencing entry. We must therefore return the case to the trial court once again so the findings are reflected in the sentencing entry. This does not require a new sentencing hearing to be conducted. Instead, a nunc pro tunc entry should be journalized to reflect the findings the trial court judge previously made. This order is consistent with our previous case of *State v. Hillman*, 10th Dist. No. 14AP-252, 2014-Ohio-5760.

{¶ 7} We do not sustain the proffered assignment of error, but vacate the trial court's most recent sentencing entry and remand the case for a new sentencing entry which complies with *Bonnell*, supra.

*Case remanded for new
sentencing entry.*

DORRIAN and LUPER SCHUSTER, JJ., concur.
