[Cite as *State v. Hall*, 2009-Ohio-6379.]

THE COURT OF APPEALS

ELEVENTH APPELLATE DISTRICT

TRUMBULL COUNTY, OHIO

STATE OF OHIO,	:	**O P I N I O N**
Plaintiff-Appellee,	:	**CASE NO. 2008-T-0051**
- vs -	:	
DONALD HALL,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 92 CR 142.

Judgment: Affirmed.

Dennis Watkins, Trumbull County Prosecutor, Administration Building, Fourth Floor, 160 High Street, N.W., Warren, OH 44481-1092 (For Plaintiff-Appellee).

Donald Hall, pro se, PID: 265-679, Marion Correctional Institution, P.O. Box 57, Marion, OH 43301-0057 (Defendant-Appellant).

TIMOTHY P. CANNON, J.

{¶1} This matter is submitted to this court on the record and the brief of appellant, Donald Hall. Appellee, the state of Ohio, has not submitted an appellate brief. Hall appeals the judgment entered by the Trumbull County Court of Common Pleas. The trial court denied various motions filed by Hall.

{¶2} In 1992, Hall was indicted with three counts of rape of a person less than 13 years of age, in violation of R.C. 2907.02. The indictment alleged that Hall engaged in sexual conduct with his son, H.H.

{¶3} In September 1992, Hall pled guilty to three counts of rape in violation of R.C. 2902.07(A)(1)(b). In November 1992, Hall was sentenced to indeterminate sentences of ten to 25 years on each of his convictions. The sentences were ordered to be served concurrently. Hall did not file a direct appeal from the judgment entry of sentence.

{¶4} In 1996, Hall filed a "petition to vacate or set aside sentence." This motion was dismissed by the trial court. Hall appealed the trial court's denial of his petition to this court. However, this court dismissed Hall's appeal for failure to prosecute.

{¶5} In May 1997, Hall filed a "petition to vacate and set aside the guilty plea." The trial court dismissed this motion.

{¶6} In July 1997, Hall filed a motion for shock probation, which was denied by the trial court.

{¶7} In September 1999, Hall filed a motion to withdraw his guilty plea. Hall filed a supplement to this motion in October 2000. In November 2000, the trial court denied Hall's motion to withdraw his guilty plea. In February 2001, Hall filed a delayed appeal of the trial court's denial of his motion to withdraw his guilty plea in this court. This court subsequently dismissed Hall's appeal for failure to prosecute.

{¶8} In April 2000, Hall filed a motion for judicial release or shock probation. The trial court denied Hall's motion.

{¶9} In February 2001, Hall filed a "motion to clarify, adjust or modify defendants sentence due false crimes found in the PSI at the parole board hearing [sic]." The trial court denied Hall's motion, and Hall filed an appeal of the trial court's

denial of his motion to this court. This court subsequently dismissed Hall's appeal for failure to prosecute.

{¶10} In September 2001, Hall filed another motion to withdraw his guilty plea. The trial court denied Hall's motion to withdraw his guilty plea without a hearing. Hall appealed the trial court's judgment entry to this court, which affirmed the judgment of the trial court. *State v. Hall*, 11th Dist. No. 2001-T-0124, 2002-Ohio-4704.

{¶11} In June 2003, Hall again filed a motion to withdraw his guilty plea. The trial court denied Hall's motion without a hearing, and Hall appealed the trial court's judgment entry to this court. On appeal, this court affirmed the judgment of the trial court. *State v. Hall*, 11th Dist. No. 2003-T-0114, 2004-Ohio-6471.

{¶12} In August 2003, Hall filed another motion to withdraw his guilty plea, which the trial court promptly denied.

{¶13} In October 2004, Hall filed an application for DNA testing. The state responded to the motion, asserting that there was no DNA collected in the initial investigation; thus, there was no sample with which to compare Hall's DNA. The trial court denied Hall's application for DNA testing.

{¶14} In April 2005, Hall filed a motion for "reconsideration for judicial release/ shock," which the trial court denied.

{¶15} In July 2006, Hall filed another motion to withdraw his guilty plea. Subsequently, he filed motions to strike H.H.'s victim impact statements and to strike the PSI report from the record in its entirety. In a single judgment entry, the trial court denied these motions. Hall timely appealed the trial court's judgment entry to this court.

This court affirmed the judgment of the trial court. *State v. Hall*, 11th Dist. No. 2007-T-0022, 2008-Ohio-2128.

{¶16} In May 2008, the trial court ruled on various motions and pleadings filed by Hall, including:

{¶17} "1. 'Writ of Mandamus to Compel Production of Withheld Evidence as Alleged to be Held by the State by Public Notice: Manifest Injustice By Revisit of Acquittal Charges and Indictment. (sic) For Usurption (sic) of First Offender Sentence' filed by Defendant Hall on January 31, 2008;

{¶18} "2. 'Supplement to Writ File/Dated Jan. 31, 2008 for Appointment of Special State Counsel due to Impairment of a Contract Revised Code §309.05: Affidavit of Complaint' filed by Defendant Hall on February 19, 2008;

{¶19} "3. 'Application for DNA Testing' filed by Defendant Hall on March 3, 2008;

{¶20} "4. 'Summary Judgement (sic) for January 31, 08 (sic) Writ. Senate Bill 262, Section 2953.21(A)(1)(a), (B)(4) to Vacate/Set Aside the Judgement (sic) Sentence or Grant Other Appropriate Relief' filed by Defendant Hall on March 10, 2008;

{¶21} "5. 'Motion for the State to Pay Cost for DNA. (sic) and Expert Profile with Authentication of new Evidence' filed by Defendant Hall on March 19, 2008;

{¶22} "6. 'Motion for DNA. (sic) and Continued Expert Authentication (sic) of New Evidence – Defendant Responds to the March 10, (sic) State's Answer for DNA Testing (sic) the State Remains in Default by Acquisecense (sic) of Defendant's Motions Dated: January 31, 2008, February 19, 2008, by "Pro Confesso Equity" (sic)' filed by Defendant Hall on March 19, 2008;

{¶23} "7. 'Defendant Responds to States (sic) March 10, 2008 Response: Summary Judgment for Appointment of Special State Counsel due to State Bad Faith with Acquisence (sic) Default' filed by Defendant Hall on March 20, 2008;

{¶24} "8. 'Defendants (sic) Response to the States (sic) Response for DNA and Authentication of New Evidence for Declaration of Actual Innocence Leave of Court to Respond' filed by Defendant Hall on April 2, 2008;

{¶25} "9. 'Defendants (sic) Response in Opposition to State Counsel Opposition for Summary Judgement (sic) Order for Special State Counsel due to Public Press Perjury, Bad Faith and Acquiescense (sic) to New Evidence and Default to Respond to Defendant's January 31, 2008 Motion with Evidence of Rebuttal' filed by Defendant Hall on April 2, 2008;

{¶26} "10. 'Motion to Accept Duplicate in Lieu of Original, Evid.R. 1003. Evid.R. 901(B)(2) Non-Expert Opinion of Handwriting Evid. Rule 901(B)(3) Comparison by Trier' filed by Defendant Hall on April 30, 2008; and

{¶27} "11. 'Motion for Extension of Time to Respond May 1, 2008 Answer' filed by Defendant Hall on May 9, 2008." ("Sic" inserted by trial court.)

{¶28} Hall raised several arguments in these motions. Most of his arguments concern a statement of H.H. Hall argues that in 2006, when H.H. was an adult and himself incarcerated, H.H. signed an affidavit stating that no sexual conduct ever occurred between H.H. and Hall. Hall references an unauthenticated article that was published in a local newspaper, the Warren Tribune Chronicle, which Hall attached to one of his pleadings. This article states that H.H. testified at Hall's parole hearing that he signed the affidavit that the rapes did not occur because he was at the Trumbull

County Jail going through detoxification and because he thought he might be released about the same time as Hall and would then be able to plot to kill Hall. The article also stated that the assistant prosecutor told the parole board that the state had "medical and physical evidence" that could have been used against Hall.

{¶29} Hall sought to have DNA tests conducted between his samples and the samples allegedly collected from the suspect in the case. He also sought to have DNA testing performed on the envelopes of letters H.H. sent to him and other people when H.H. was incarcerated. Hall believed this testing would show H.H. actually sent the letters and would also determine whether H.H. was under the influence of any drugs during that time. Hall argued the state should be required to turn over additional evidence that it did not turn over during discovery. He also sought a current competency evaluation of H.H. Hall asked the trial court to consider copies of certain letters allegedly received from H.H. so that the trial court could analyze the handwriting. Finally, Hall requested the trial court to consider several letters and affidavits from friends and family members indicating their belief that Hall was innocent of the underlying rapes.

{¶30} In a single judgment entry, the trial court denied the aforementioned motions.

{¶31} Hall has timely appealed the trial court's denial of his motions. Hall's initial appellate brief was stricken by this court. Hall has filed a "supplemental brief," which we will consider as his merit brief.

{¶32} Hall raises 12 assignments of error. Prior to individually addressing his assigned errors, we note that several of his arguments have been raised in prior

motions to the trial court and/or appeals to this court. In addition, some of his arguments could have been raised in a direct appeal of his judgment entry of sentence or in subsequent motions filed in the trial court. Accordingly, many of his assigned errors are without merit pursuant to the doctrine of res judicata. As stated by the Supreme Court of Ohio:

{¶33} "Under the doctrine of *res judicata*, a final judgment of conviction bars a convicted defendant who was represented by counsel from raising and litigating in any proceeding, except an appeal from that judgment, any defense or any claimed lack of due process that was raised or could have been raised by the defendant at trial, which resulted in that judgment of conviction, or on an appeal from that judgment." *State v. Szefcyk* (1996), 77 Ohio St.3d 93, syllabus.

{¶34} Hall's first assignment of error is:

{¶35} "Bad Faith: Appellant has been denied due process of law when state counsel breached a court sanction stipulated polygraph examination."

{¶36} In his first assignment of error, Hall argues there were irregularities with the administration of a polygraph examination that was given to him prior to entering his guilty plea.

{¶37} Hall did not raise this argument with the trial court. This court has held that issues that have not been raised at the trial court level cannot be raised for the first time on appeal. *State v. Marquez*, 11th Dist. No. 2007-A-0085, 2008-Ohio-5324, at ¶33, citing *State v. Gegia*, 157 Ohio App.3d 112, 2004-Ohio-2124, at ¶26.

{¶38} Moreover, Hall's argument is barred by the doctrine of res judicata. Any alleged errors that may have occurred with the administration of the polygraph

examination would have occurred prior to Hall's original sentencing entry in 1992. Thus, he could have raised them in a direct appeal to this court. *State v. Szefcyk*, supra, at syllabus.

{¶39} Hall's first assignment of error is without merit.

{¶40} Hall's second assignment of error is:

{¶41} "The trial court abused [its] discretion and void defendants due process and failed to establish subject matter jurisdiction for corpus delicti and/or mens rea by competent witness. [sic]"

{¶42} Hall asserts the trial court failed to conduct a competency hearing on the record of the complaining witness, H.H. In support of his argument, Hall quotes R.C. 2317.01, which provides:

{¶43} "All persons are competent witnesses except those of unsound mind and children under ten years of age who appear incapable of receiving just impressions of the facts and transactions respecting which they are examined, or of relating them truly.

{¶44} "In a hearing in an abuse, neglect, or dependency case, any examination made by the court to determine whether a child is a competent witness shall be conducted by the court in an office or room other than a courtroom or hearing room, shall be conducted in the presence of only those individuals considered necessary by the court for the conduct of the examination or the well-being of the child, and shall be conducted with a court reporter present. The court may allow the prosecutor, guardian ad litem, or attorney for any party to submit questions for use by the court in determining whether the child is a competent witness."

{¶45} It is not clear whether Hall is arguing that the trial court should have conducted a competency hearing of H.H. at the time he was initially charged with rape, when H.H. was a child, or at the time H.H. allegedly made the statements recanting the rapes, when H.H. was an adult.

{¶46} To the extent Hall is arguing that the trial court should have conducted a hearing on the record when H.H. was a child, this argument is precluded because Hall did not raise it at the trial court level. *State v. Marquez*, supra, at ¶33. (Citation omitted.) Further, this argument is barred by the doctrine of res judicata, since Hall could have raised it in a direct appeal. *State v. Szefcyk*, supra, at syllabus.

{¶47} To the extent Hall is arguing that the trial court should have conducted a competency hearing after H.H. became an adult, we address this contention in our analysis of Hall's ninth assignment of error, infra.

{¶48} Hall's second assignment of error is without merit.

{¶49} Hall's third assignment of error is:

{¶50} "Trial Court failed to provide corpus delicti and/or mens rea for subject matter jurisdiction needed to accept plea contract. [sic]"

{¶51} In his third assignment of error, Hall argues that he did not knowingly and intelligently enter his guilty plea.

{¶52} This argument is precluded because Hall did not raise it at the trial court level. *State v. Marquez*, supra, at ¶33. (Citation omitted.) Further, this argument is barred by the doctrine of res judicata, since Hall could have raised it in a direct appeal. *State v. Szefcyk*, supra, at syllabus. Finally, this argument is barred by res judicata because Hall has filed numerous motions to withdraw his guilty plea, all of which were

denied by the trial court. In addition, some of those denials of his motions to withdraw his guilty plea were affirmed by this court on appeal. See *State v. Hall*, 2002-Ohio-4704; *State v. Hall*, 2004-Ohio-6471; and *State v. Hall*, 2008-Ohio-2128.

{¶53} Hall's third assignment of error is without merit.

{¶54} Hall's fourth assignment of error is:

{¶55} "The trial court abused its discretion and void defendants due process and equal protection of law. [sic]"

{¶56} Hall contends the trial court erred by considering the presentence investigation report when it imposed his sentence.

{¶57} This argument is precluded because Hall did not raise it at the trial court level. *State v. Marquez*, supra, at ¶33. (Citation omitted.) Further, this argument is barred by the doctrine of res judicata, since Hall could have raised it in a direct appeal. *State v. Szefcyk*, supra, at syllabus. Finally, this argument is barred by res judicata due to the fact that Hall has repeatedly raised similar arguments that have been considered and rejected by the trial court. See *State v. Hall*, 2008-Ohio-2128, at ¶19-21.

{¶58} Hall's fourth assignment of error is without merit.

{¶59} Hall's fifth assignment of error is:

{¶60} "The trial court abused its discretion when it sentence[d] a first offender to more than a minimum sentence without acknowledging the statutory criteria for the imposition of sentence."

{¶61} In his fifth assignment of error, Hall argues the trial court erred by imposing a prison term that was greater than the minimum term.

{¶62} This argument is precluded because Hall did not raise it at the trial court level. *State v. Marquez*, supra, at ¶33. (Citation omitted.) Further, this argument is barred by the doctrine of res judicata, since Hall could have raised it in a direct appeal. *State v. Szefcyk*, supra, at syllabus.

{¶63} As an aside, to the extent Hall is arguing that the provisions in R.C. 2929.14(B) apply in this matter, we note that this statute did not take effect until 1996, so it was inapplicable at the time of Hall's sentencing.

{¶64} Hall's fifth assignment of error is without merit.

{¶65} Hall's sixth assignment of error is:

{¶66} "State failed to object to the courts failure to establish crime evidence record(s). [sic]"

{¶67} Hall asserts his sentence is against the manifest weight of the evidence. In addition, Hall argues that the length of his sentence violated the plea agreement he entered into.

{¶68} This argument is precluded because Hall did not raise it at the trial court level. *State v. Marquez*, supra, at ¶33. (Citation omitted.) Further, this argument is barred by the doctrine of res judicata, since Hall could have raised it in a direct appeal. *State v. Szefcyk*, supra, at syllabus.

{¶69} As to Hall's argument that his sentence violated the plea agreement and "verbal promises," we note that the written plea agreement provided that Hall could be sentenced to "5, 6, 7, 8, 9, or 10 to 25 years" in prison on each of the three counts of rape. Thus, Hall was clearly aware of the maximum sentence the trial court could impose.

{¶70} Hall's sixth assignment of error is without merit.

{¶71} Hall's seventh assignment of error is:

{¶72} "The state applies ex post facto new parole guidelines to usurp underlying crimes as the crime of conviction and extend and/or usurp duration of sentence. [sic]"

{¶73} Hall argues that the application of the 1998 version of the parole guidelines to him at his initial parole hearing was improper.

{¶74} This argument is precluded because Hall did not raise it at the trial court level. *State v. Marquez*, supra, at ¶33. (Citation omitted.)

{¶75} Hall quotes the following language from this court's 2004 opinion:

{¶76} "Turning to the instant matter, we note as dicta that the state breached appellant's plea agreement. Contrary to the state's arguments, the parole board and the APA were bound by the plea agreement." *State v. Hall*, 2004-Ohio-6471, at ¶40. (Citations omitted.)

{¶77} In addition, he directs our attention to the following language:

{¶78} "In our view, meaningful consideration for parole consists of more than a parole hearing in which an inmate's offense of conviction is disregarded and parole eligibility is judged largely, if not entirely, on an offense category score that does not correspond to the offense or offenses of conviction set forth in the plea agreement." Id. at ¶38.

{¶79} However, Hall overlooks this court's statement that "[a] civil declaratory judgment action is the proper remedy in this instance, and proper jurisdiction would be in Franklin County or Lorain County." Id. at ¶54. In his most recent filings, Hall did not

file a civil declaratory judgment action, nor did he invoke the jurisdiction of the other stated counties.

{¶80} Hall's seventh assignment of error is without merit.

{¶81} Hall's eighth assignment of error is:

{¶82} "The state applied S.B. II as retrospective law for usurp of nulled specifications. [sic]"

{¶83} Hall contends the application of the 1998 version of the parole guidelines to him at his 2005 parole hearing was improper.

{¶84} This argument is precluded because Hall did not raise it at the trial court level. *State v. Marquez*, supra, at ¶33. (Citation omitted.)

{¶85} In addition, this court thoroughly addressed the retroactive application of parole guidelines in its 2004 opinion. *State v. Hall*, 2004-Ohio-6471, at ¶32-59.

{¶86} Hall's eighth assignment of error is without merit.

{¶87} Hall's ninth assignment of error is:

{¶88} "Abuse of discretion and due process clause: the trial court failed to hold a competency hearing due to detoxification for case 05-CR-0422, for signing an adhesion plea agreement contract from the Trumbull County Jail. [sic]"

{¶89} Hall argues the trial court should have conducted a competency hearing for H.H. when he was an adult. H.H. allegedly signed an affidavit stating that Hall was innocent of the crimes in question. However, Hall argues that H.H. was intoxicated when he later entered a guilty plea in his own case.

{¶90} Hall has not cited to any authority requiring the trial court to conduct a competency evaluation of an adult witness years after a defendant's conviction.

Further, in the materials submitted by Hall, there are explanations for H.H.'s withdrawal of his statement that the underlying crimes did not occur. H.H. explained that he was going through detoxification at the time he signed the affidavit and he also informed the parole board of his thoughts that he might be able to plot to kill Hall should Hall be released from prison. Finally, as the trial court noted, Hall pled guilty to the offenses, thereby admitting that the sexual conduct occurred.

{¶91} Hall's ninth assignment of error is without merit.

{¶92} Hall's tenth assignment of error is:

{¶93} "Appellant has been denied due process of law to manifest injustice when state counsel with bad faith in Franklin County, Ohio applied ex post facto new statutes, new administrative regulations that void R.C. 2967.13(A) to impose a maximum duration of sentence to a 1989-90 crime of conviction. [sic]"

{¶94} This argument is precluded because Hall did not raise it at the trial court level. *State v. Marquez*, supra, at ¶33. (Citation omitted.)

{¶95} Also, Hall argues that the state "retroactively applied R.C. 2930.16(B) *** and by using a state bribe to the victim for a new DRC. Placement, and for threat of incompetence for detoxification and murder ***. [sic]" Hall does not direct this court to any evidence in support of his theory that the state bribed H.H. to effectively withdraw his affidavit stating that the crimes did not occur.

{¶96} Hall's tenth assignment of error is without merit.

{¶97} Hall's eleventh assignment of error is:

{¶98} "State counsel denied appellant due process of law by withholding evidence favorable to defendant, rape medical [evidence] and denied DNA extraction of evidence."

{¶99} Hall raises two arguments under this assignment of error. First, he argues that the trial court erred by denying his application for DNA extraction.

{¶100} In October 2004, Hall filed an application for DNA extraction. The state filed a response to Hall's 2004 application, wherein the state averred "no DNA evidence was considered by the Grand Jury in 1992 as a basis for the Defendant's indictment and no DNA was cited in the Factual Basis that was recited at the Defendant's Plea, this is because there was no Suspect DNA collected in this case." Thereafter, in November 2004, the trial court denied Hall's initial application for DNA extraction. This argument is barred by the doctrine of res judicata, since Hall filed an identical motion, which was denied by the trial court. See *State v. Szefcyk*, supra, at syllabus.

{¶101} Next, Hall argues the prosecutor failed to provide medical evidence of the rape. He alleges that the state had physical evidence from the victim that would prove another individual committed the offense. Hall cites to the newspaper article in the Warren Tribune Chronicle, which reportedly indicated the state asserted it had medical evidence to corroborate the rapes of H.H. during Hall's parole hearing. Hall assumes that the medical evidence referred to by the state was a bodily substance from the suspect who committed the rapes, which would contain the suspect's DNA. However, this "medical evidence" could have been the results of an examination by a medical professional. Hall does not refer to any additional evidence suggesting the state had evidence that may have contained DNA.

{¶102} Hall's eleventh assignment of error is without merit.

{¶103} Hall's twelfth assignment of error is:

{¶104} "Due process of law: the trial court denied DNA evidence for new evidence for actual innocence declarations by victims letters, statements & affidavits. [sic]"

{¶105} In his twelfth assignment of error, Hall asserts the trial court erred by denying his motion to have certain letters and envelopes that H.H. sent to him and others tested for DNA evidence. Hall believed DNA retrieved from these items could be tested to determine if H.H. sent them and, if he did, if he was under the influence of any substances at that time. Hall misconstrues the "DNA evidence" mentioned in R.C. 2953.71 through 2953.83. He seeks to have the trial court order that testing be done on items created years after the crimes in question. Moreover, at best, such evidence would demonstrate that H.H. in fact sent such materials to Hall. The testing would not determine the veracity of the statements made in the correspondence. Further, Hall has not demonstrated that the technology exists for testing to determine the chemicals contained in a person's body based on a sample of trace physical evidence from a letter or envelope.

{¶106} Hall also questions the state's decision not to charge H.H. for attempted murder for allegedly plotting to kill Hall after he is released from prison. Hall has not demonstrated what relief the trial court could provide him due to the state's exercise of its discretion on whether to pursue charges against another individual.

{¶107} Hall's twelfth assignment of error is without merit.

{¶108} In addition to his assigned errors, Hall raises three unnumbered propositions of law.[1]

{¶109} Hall's first proposition of law is:

{¶110} "For jurisdiction to accept a plea contract: when the court fails to acknowledge a PSI report prior to sentencing and the court & state aquiescence [sic] to mandated Revised Codes for sentencing, has mens rea been established for an amended indictment to adjudicate a first offender maximum sentence?"

{¶111} Hall argues that the state did not establish the mens rea necessary for his offenses. Hall pled guilty to the crimes in question. Thus, the state did not need to prove all the underlying elements of the offenses.

{¶112} Hall's first proposition of law is without merit.

{¶113} Hall's second proposition of law is:

{¶114} "A defendant has been denied due process of law when the state [imposes] a maximum duration of sentence by petition based on unconstitutional statutes."

{¶115} Hall contends the trial court erred by sentencing him to a prison term that was longer than the statutory minimum. We addressed a similar argument in our analysis of Hall's fifth assignment of error. For those reasons, Hall's second proposition of law is without merit.

{¶116} Hall's third proposition of law is:

1. We note that Loc.R. 16(C)(4) of the Eleventh District Court of Appeals provides, "An Assignment of Error shall not be set forth as a proposition of law as envisioned by Rule VI of the Rules of Practice of the Supreme Court of Ohio. Such a statement is wholly inappropriate at this appellate level." Despite this procedural infirmity, we will briefly address Hall's arguments advanced in these sections of his brief.

{¶117} "A defendant has been denied due process of law when a court abuses its discretion when it sentences a first offender to a maximum sentence without acknowledging the statutory criteria for imposition of sentence."

{¶118} Hall argues the trial court abused its discretion when it imposed a maximum prison term without considering the factors contained in R.C. 2929.11 and 2929.12.

{¶119} This argument is precluded because Hall did not raise it at the trial court level. *State v. Marquez*, supra, at ¶33. (Citation omitted.) Further, this argument is barred by the doctrine of res judicata, since Hall could have raised it in a direct appeal. *State v. Szefcyk*, supra, at syllabus.

{¶120} Also, we note that R.C. 2929.11 and 2929.12 did not take effect until 1996, so these statutes were inapplicable at the time of Hall's sentencing. Accordingly, Hall has not demonstrated that the trial court erred by not considering the factors and guidelines contained in these statutes.

{¶121} Hall's third proposition of law is without merit.

{¶122} The judgment of the Trumbull County Court of Common Pleas is affirmed.

MARY JANE TRAPP, P.J.,

DIANE V. GRENDELL, J.,

concur.