

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

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| State of Ohio, | : | |
| Plaintiff-Appellee, | : | |
| v. | : | No. 07AP-218 (C.P.C. No. 02CR08-5134) |
| Donald E. Jones, | : | (REGULAR CALENDAR) |
| Defendant-Appellant. | : | |

O P I N I O N

Rendered on August 30, 2007

Ron O'Brien, Prosecuting Attorney, and *Richard Termuhlen, II*, for appellee.

Douglas A. Funkhouser Co., L.P.A., and *Douglas A. Funkhouser*, for appellant.

APPEAL from the Franklin County Court of Common Pleas.

FRENCH, J.

{¶1} Defendant-appellant, Donald E. Jones, appeals from the judgment of the Franklin County Court of Common Pleas resentencing appellant on remand from our decision in *State v. Jones*, Franklin App. No. 04AP-663, 2005-Ohio-4069. Appellant assigns a single assignment of error:

The trial court's application of *State v. Foster* (2006), 109 Ohio St.3d 1, at Appellant's resentencing hearing violated Appellant's rights as guaranteed by the Ex Post Facto and Due Process Clauses of the United States Constitution. Appellant was entitled to the imposition of minimum, concurrent prison sentences, and the failure to impose such sentences deprived Appellant of his right to a jury trial as guaranteed by the United States Constitution.

{¶2} We have previously rejected the precise constitutional arguments that appellant raises here. See *State v. Lariva*, Franklin App. No. 06AP-758, 2007-Ohio-1012, at ¶11; *State v. Satterwhite*, Franklin App. No. 06AP-666, 2007-Ohio-798, at ¶18. Accordingly, we conclude that the trial court did not violate appellant's above-noted constitutional rights when the trial court resentenced appellant. As such, we overrule appellant's single assignment of error, and we affirm the judgment of the Franklin County Court of Common Pleas.

Judgment affirmed.

KLATT and TYACK, JJ., concur.
