

[Cite as *State v. Evans*, 2007-Ohio-3580.]

**IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
MONTGOMERY COUNTY**

STATE OF OHIO	:	
	:	Appellate Case No. 21690
<i>Plaintiff-Appellee</i>	:	
	:	Trial Court Case Nos. 03-CR-1565
v.	:	
	:	(Criminal Appeal from
WALTER C. EVANS, JR.	:	Common Pleas Court)
	:	
<i>Defendant-Appellant</i>	:	

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OPINION

Rendered on the 13th day of July, 2007.

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MATHIAS H. HECK, JR., by JILL R. SINK, Atty. Reg. #0076955, Montgomery County Prosecutor's Office, Appellate Division, 301 West Third Street, 5th Floor, P.O. Box 972, Dayton, Ohio 45422
Attorneys for Plaintiff-Appellee

WALTER C. EVANS, JR., #485-470, Ross Correctional Institution, P.O. Box 7010, Chillicothe, Ohio 45601
Defendant-Appellant, *pro se*

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BROGAN, J.

{¶ 1} Walter Evans, Jr. appeals from his conviction for purposeful murder, gross abuse of a corpse, and tampering with evidence. This is Evans' second appeal. He was initially sentenced to fifteen years to life on the murder charge and one year on the abuse of a corpse charge with the sentence of one year to run concurrently with the

murder charge. Evans was also sentenced to a three-year sentence on the tampering charge, which was to be served consecutively to the other convictions. We reversed the first sentences imposed pursuant to *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470. On remand, the trial court imposed the same sentences.

{¶ 2} Evans contends in his first assignment that he was again denied a jury trial when he was re-sentenced. We do not have a transcript of the re-sentencing, so we must presume the trial court merely used its discretion to impose the identical sentences previously entered. Evans' due process rights were not violated merely because the trial court reimposed the same sentences.

{¶ 3} In his second assignment, Evans contends the trial court erred in imposing court costs and fines when he is indigent. The trial court did not impose fines upon Evans. The court may impose court costs on an indigent defendant. *State v. White*, 103 Ohio St.3d 580, 2004-Ohio-5989, 817 N.E.2d 393, at ¶ 8. Since no sentencing transcript was included in this appeal, we do not know whether Evans moved for a waiver of the imposition of those costs. The second assignment of error is Overruled.

{¶ 4} The judgment of the trial court is Affirmed.

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FAIN and WALTERS, JJ., concur.

(Hon. Sumner E. Walters, retired from the Third Appellate District, sitting by assignment of the Chief Justice of the Supreme Court of Ohio)

Copies mailed to:

Jill R. Sink

Walter C. Evans, Jr.
Hon. Timothy N. O'Connell