

IN THE COURT OF APPEALS FOR CLARK COUNTY, OHIO

STATE OF OHIO	:	
	:	
Plaintiff-Appellee	:	C.A. CASE NO. 2007 CA 39
v.	:	T.C. NO. 04 CR 903
	:	
JOHN P. ADKINS	:	(Criminal Appeal from Common Pleas Court)
	:	
Defendant-Appellant	:	

**OPINION**

Rendered on the 2nd day of May, 2008.

AMY M. SMITH, Atty. Reg. No. 0081712, Assistant Prosecuting Attorney, P. O. Box 1608, 50 E. Columbia Street, Springfield, Ohio 45501  
Attorney for Plaintiff-Appellee

GREGORY TURNER, Atty. Reg. No. 0073859, 207 South Main Street, P. O. Box 339, Englewood, Ohio 45322  
Attorney for Defendant-Appellant

JOHN P. ADKINS, #A507-447, Chillicothe Correctional Institute, P. O. Box 550, Chillicothe, Ohio 45601  
Defendant-Appellant

WOLFF, P.J.

{¶1} John P. Adkins was sentenced to consecutive four-year sentences for the offenses of sexual battery and unlawful sexual conduct with a minor, both third degree felonies. We

remanded the case for resentencing. See *State v. John P. Adkins*, Clark App. No. 05 CA 121, 2006-Ohio-5960. Upon remand, the trial court again imposed consecutive sentences of four years for each offense. Adkins again appealed.

{¶2} Counsel was appointed to represent Adkins on appeal, and on December 17, 2007, appointed appellate counsel filed an *Anders* brief pursuant to *Anders v. California* (1967), 386 U.S. 738. Appointed appellate counsel indicated that after review of the record and research of relevant case law, he was unable to find a meritorious issue to assert on appeal.

{¶3} We notified Adkins by magistrate's order of February 4, 2008, that his appointed appellate counsel had filed an *Anders* brief, and of the significance of an *Anders* brief. We afforded Adkins sixty days within which to assert any assignments of error in a pro se brief. As of April 17, 2008, Adkins has filed nothing with this court.

{¶4} Appointed appellate counsel suggests as two possible assignments of error that the application of *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, as applied to him, violates the prohibition against ex post facto laws and Adkins' right to due process, and that trial counsel at resentencing was ineffective in raising these constitutional issues in the trial court. Counsel nevertheless concedes that these constitutional arguments have not been successful, citing our recent case of *State of Ohio v. Clayton Williams*, Clark App. No. 06 CA 0120, 2007-Ohio-5754.

{¶5} Pursuant to our responsibilities under *Anders*, we have conducted an independent review of the record on appeal and agree with the assessment of appointed appellate counsel that there are no meritorious issues for appellate review, and we further conclude that this appeal is entirely frivolous.

{¶6} The judgment appealed from will be affirmed.

.....

GRADY, J. and DONOVAN, J., concur.

Copies mailed to:

Amy M. Smith

Gregory Turner

John P. Adkins

Hon. Richard J. O'Neill