

[Cite as *State v. Houdeshell* , 2008-Ohio-2398.]

COURT OF APPEALS
LICKING COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-vs-

JOHN HOUESHELL

Defendant-Appellant

JUDGES:

Hon. William B. Hoffman, P.J.

Hon. W. Scott Gwin, J.

Hon. John W. Wise, J.

Case No. 2007CA00055

OPINION

CHARACTER OF PROCEEDING:

Appeal from the Licking County Court of
Common Pleas, Criminal Case No.
06 CR 513

JUDGMENT:

Affirmed

DATE OF JUDGMENT ENTRY:

May 15, 2008

APPEARANCES:

For Plaintiff-Appellee

For Defendant-Appellant

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Hoffman, P.J.

{¶1} Defendant-appellant John Houdeshell appeals the April 9, 2007 Judgment Entry entered by the Licking County Court of Common Pleas, which sentenced him to an aggregate term of imprisonment of seven years on two counts of rape and one count of gross sexual imposition, following a jury trial. Plaintiff-appellee is the State of Ohio.

STATEMENT OF THE CASE¹

{¶2} On September 22, 2006, the Licking County Grand Jury indicted Appellant on two counts of rape, in violation of R.C. 2907.02(A)(1)(b); and one count of gross sexual imposition, in violation of R.C. 2907.05(A)(4). Appellant entered a plea of not guilty to the Indictment at his arraignment on October 3, 2006. The matter proceeded to jury trial. After hearing all of the evidence and deliberations, the jury found Appellant guilty on all counts.

{¶3} The trial court conducted a sentencing and sexual offender classification hearing on April 9, 2007. The trial court imposed a one year term of imprisonment on the gross sexual imposition conviction, and three year terms of imprisonment on the two rape counts. The trial court ordered the sentences be served consecutively for a total of seven years. The trial court adjudicated Appellant a sexually oriented offender. The trial court memorialized the sentence and sexual offender classification via Judgment Entry filed April 9, 2007.

{¶4} It is from his sentence Appellant appeals, raising as his sole assignment of error:

¹ A Statement of the Facts underlying Appellant's conviction is unnecessary to our disposition of this case; therefore, such shall not be included herein.

{¶15} “I. THE TRIAL COURT ERRED BY IMPOSING CONSECUTIVE TERMS OF IMPRISONMENT.”

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{¶16} In his sole assignment of error, Appellant maintains the trial court erred in imposing consecutive terms of imprisonment following the Ohio Supreme Court’s decision in *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856.

{¶17} The Constitutional arguments raised by Appellant in this assignment of error are identical to arguments raised and rejected by this Court in a number of prior decisions. See, e.g., *State v. Paynter*, Muskingum App. No. CT2006-0034, 2006-Ohio5542; and *State v. Firouzmandi*, Licking App. No.2006-CA-41, 2006-Ohio-5823. For the reasons set forth in those opinions, we overrule Appellant's sole assignment of error.

{¶18} The judgment of the Licking County Court of Common Pleas is affirmed.

By: Hoffman, P.J.

Gwin, J. and

Wise, J. concur

s/ William B. Hoffman
HON. WILLIAM B. HOFFMAN

s/ W. Scott Gwin
HON. W. SCOTT GWIN

s/ John W. Wise
HON. JOHN W. WISE

