

[Cite as *State v. White*, 2008-Ohio-701.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

| | | |
|----------------------|---|--------------------------|
| State of Ohio, | : | |
| | : | |
| Plaintiff-Appellee, | : | |
| | : | No. 07AP-743 |
| v. | : | (C.P.C. No. 03CR10-7014) |
| | : | |
| Marcus D. White, | : | (REGULAR CALENDAR) |
| | : | |
| Defendant-Appellant. | : | |

O P I N I O N

Rendered on February 21, 2008

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

Yeura R. Venters, Public Defender, and *David L. Strait*, for appellant.

APPEAL from the Franklin County Court of Common Pleas.

FRENCH, J.

{¶1} Defendant-appellant, Marcus D. White, appeals from the judgment of the Franklin County Court of Common Pleas that resentenced appellant on remand from our decision in *State v. White*, Franklin App. No. 05AP-1178, 2006-Ohio-4226. Appellant assigns a single assignment of error: "The trial court erred in imposing consecutive sentences."

{¶2} In his single assignment of error, appellant contends that the trial court's application of *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, at the resentencing hearing violated appellant's rights as guaranteed by: (1) the Ex Post Facto Clause of the United States Constitution and a similar provision in the Ohio Constitution; and (2) the Due Process Clause of the United States Constitution. Thus, appellant argues that, in accordance with such constitutional provisions, he was entitled to concurrent prison sentences. However, we have previously rejected the precise constitutional arguments that appellant raises here. See *State v. Jones*, Franklin App. No. 07AP-218, 2007-Ohio-4458, at ¶1-2; *State v. Taylor*, Franklin App. No. 06AP-832, 2007-Ohio-2384, at ¶1, 7; *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 it imposed consecutive sentences at resentencing. 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.

BROWN and KLATT, JJ., concur.
