

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-061093
	:	TRIAL NO. B-0401283
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
JABARI DAILEY, aka BRANDON	:	
COLLINS,	:	
	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Defendant-appellant Jabari Dailey, aka Brandon Collins, was convicted of felonious assault with specifications,² carrying a concealed weapon,³ and having a weapon while under a disability.⁴ He was sentenced to seven years in prison for the felonious assault, three years for the specification, 11 months for carrying a concealed weapon, and 11 months for having a weapon under a disability. The seven-year term and three-year term were ordered to be served consecutively, and the remaining counts were to be served concurrently. In sum, Dailey was sentenced to an aggregate term of ten years in prison.

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

² R.C. 2903.11(A)(2).

³ R.C. 2923.12(A).

⁴ R.C. 2923.13(A)(3).

On appeal, this court reversed the sentence of the trial court pursuant to *State v. Foster*.⁵ At resentencing, the trial court conducted a new sentencing hearing and reimposed the same sentence.

In one assignment of error, Dailey now argues that the retroactive application of *State v. Foster* violates the prohibition against ex post facto legislation and his rights to due process. This court has considered and rejected this argument on numerous occasions.⁶ Dailey acknowledges this precedent but asks this court to reconsider those decisions. We decline to do so and conclude that Dailey's argument is without merit.

The judgment of the trial court is affirmed.

Further, a certified copy of this Judgment Entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

PAINTER, P.J., SUNDERMANN and DINKELACKER, JJ.

To the Clerk:

Enter upon the Journal of the Court on December 19, 2007

per order of the Court _____
Presiding Judge

⁵ 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470.

⁶ See, e.g., *State v. Bruce*, 1st Dist. No. C-060456, 2007-Ohio-175, and *State v. Lockett*, 1st Dist. No. C-060404, 2007-Ohio-308.