

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

STATE OF OHIO,	:	APPEAL NO. C-070002
	:	TRIAL NO. B-0511985
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
MARY PEDERI,	:	
	:	
Defendant-Appellant.	:	

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

Defendant-appellant Mary Pederi was indicted on two counts of aggravated arson<sup>2</sup> and two counts of attempted murder.<sup>3</sup> In 2005, Pederi had learned that her boyfriend, Jim Havey, was having a relationship with a woman named Joyce Reide. Pederi searched the Internet, found Reide's address, and printed directions to Reide's house. Pederi then drove from Cleveland, Ohio, to Reide's Cincinnati address and began dousing Reide's house with gasoline. Reide, awakened by the noise, went downstairs to investigate and saw Pederi dumping gasoline into the house. When Reide tried to stop Pederi, she poured gasoline on Reide. Realizing that she and the house had been soaked with gasoline, Reide ran outside. After making it outside safely, Reide watched her home burn to the ground.

---

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

<sup>2</sup> R.C. 2909.02 (A)(1) and 2909.02(A)(2).

<sup>3</sup> R.C. 2923.02(A).

## OHIO FIRST DISTRICT COURT OF APPEALS

---

Under an agreement, Pederi pleaded guilty to one count of aggravated arson<sup>4</sup> and one count of attempted murder;<sup>5</sup> the remaining two counts were dismissed in return for her guilty plea. The trial court found Pederi guilty and imposed consecutive seven- and ten-year terms of incarceration. On appeal, Pederi now argues that the sentence was imposed (1) when she was not competent to be sentenced, (2) without ordering a competency evaluation, (3) without considering mitigating factors, and (4) in violation of the Ex Post Facto Clause because of the application of *State v. Foster*.<sup>6</sup> We review Pederi's assignments of error in reverse order.

We first reject Pederi's assignment of error charging that the trial court's application of *State v. Foster* was unconstitutional. We have repeatedly upheld the constitutionality of *State v. Foster*, and we will not revisit the issue here.<sup>7</sup> *Foster* held that any sentence that is within the applicable statutory range is permissible. Aggravated arson is a second-degree felony carrying a maximum sentence of eight years;<sup>8</sup> attempted murder is a first-degree felony carrying a maximum sentence of ten years.<sup>9</sup> The sentence imposed in this case was an aggregate of 17 years' incarceration, and it was within the statutory range of 18 years. We find no error in Pederi's sentence.

We now consider Pederi's first and second assignments of error together, because they are interrelated. Pederi argues that the trial court erred in sentencing her when she was incompetent, and that it should have, at a minimum, ordered an evaluation to determine her competency.

---

<sup>4</sup> R.C. 2909.02(A)(2).

<sup>5</sup> R.C. 2923.02(A).

<sup>6</sup> 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 740.

<sup>7</sup> See, e.g., *State v. Bruce*, 170 Ohio App.3d 92, 2007-Ohio-175, 866 N.E.2d 144.

<sup>8</sup> See R.C. 2929.14(A)(2).

<sup>9</sup> See R.C. 2929.14(A)(1).

A defendant who is mentally incompetent should not be sentenced until competency has been restored.<sup>10</sup>

Pederi was initially found incompetent, but the trial court later found that her competency had been restored, and that she knew the difference between right and wrong. The defense had never advanced a not-guilty-by-reason-of-insanity argument.

In arguing that she remained incompetent, Pederi cites her unusual behavior during the sentencing hearing and her repeated references to “Nancy,” a voice that, Pederi claimed, told her to do things.

During the sentencing hearing, when Pederi was asked if she wanted to speak in mitigation of her sentence, she responded by asking whether Havey was in the courtroom. The court responded, “[W]hen the next 18 years of your life is in the balance, you don’t want to turn your full attention to me? You want to know if Mr. Havey is in the courtroom instead?” Pederi responded that if Havey was in the courtroom, it would influence what she wanted to say. Pederi finally stated that “there are two victims right at this moment in this courtroom, once of them being Joyce, and one of them being myself—brought on by Jim Havey.”

Pederi also claims that her incompetence was evidenced by her repeated assertions that the voice in her head had been the orchestrator of the arson and attempted murder. Pederi explained, “The voices I heard that day were telling me to do this, Nancy, the voices that I heard that day says ‘you got to do this’ and ‘you can’t stop’ and ‘you have to do it.’ And I felt possessed, I felt taken over, and I felt that this is what I had to do \* \* \* I was possessed.”

---

<sup>10</sup> See *State v. Phelps* (1991), 75 Ohio App.3d 573, 600 N.E.2d 329.

**OHIO FIRST DISTRICT COURT OF APPEALS**

---

Our review of the record convinces us that Pederi's competence had returned when she was sentenced. Pederi was able to distinguish between right and wrong, and she was also able to competently and succinctly answer the court's questions during sentencing. The record also reflects that Pederi was either exaggerating or feigning mental-health problems. In fact, one report had found that "Nancy" was not a sign of dissociative-identity disorder, but rather was nothing more than "an object to externalize blame and avoid criminal responsibility." Moreover, Pederi's repeated references to the voices that *were*—we note the use of the past tense—in her head showed that when sentenced she was no longer influenced by "Nancy."

Having concluded that Pederi's assignments of error are meritless, we affirm the trial court's judgment.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**PAINTER, P.J., HENDON and DINKELACKER, JJ.**

*To the Clerk:*

Enter upon the court's journal on December 19, 2007  
per order of the Court \_\_\_\_\_  
Presiding Judge