

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

STATE OF OHIO,	:	APPEAL NO. C-080977
Plaintiff-Appellee,	:	TRIAL NO. B-0804175
vs.	:	<i>JUDGMENT ENTRY.</i>
ERIC MAHON,	:	
Defendant-Appellant.	:	

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

While driving his tractor-trailer cab, defendant-appellant Eric Mahon crashed into a car occupied by 75-year-old Margaret Loxterkamp and her 78-year old sister, Irmagard Redder. Both women were seriously injured. Mahon was under the influence of alcohol at the time of the crash.

The state charged Mahon with two counts of aggravated vehicular assault and two counts of vehicular assault. Mahon pleaded no contest, and the trial court found him guilty as charged. For purposes of sentencing, the court merged each vehicular-assault charge with a respective aggravated-vehicular-assault charge. It sentenced Mahon to three years' confinement for each aggravated-vehicular-assault, to be served consecutively, for a total of six years'

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

incarceration. The trial court also suspended Mahon's drivers' license for ten years. This appeal followed.

In his first assignment of error, Mahon argues that the trial court should have convicted him of only one crime for each victim. This is precisely what occurred. This assignment of error is overruled.

In his second assignment of error, Mahon contends that the trial court should have sentenced him to the minimum term, and that his sentence was disproportionate to his crimes.

We hold that Mahon's sentence was within the legal range, and that the trial court did not abuse its discretion in imposing more than the minimum sentence. Mahon's first argument is therefore without merit on the basis of *State v. Foster*² and *State v. Kalish*.³

We also find no merit in Mahon's argument that his sentence was disproportionate to his crimes. While under the influence of alcohol, Mahon crashed his tractor-trailer cab into a much smaller car occupied by 75-year-old Loxterkamp and 78-year-old Redder, seriously injuring both of them. In light of these facts, Mahon's sentence was not so disproportionate to the offenses that it "shock[s] the sense of justice of the community."⁴

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

³ 120 Ohio St.3d 23, 2008-Ohio-4912, 896 N.E.2d 124.

⁴ *State v. Weitbrecht*, 86 Ohio St.3d 368, 1999-Ohio-113, 715 N.E.2d 167.

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Mahon's second assignment of error is overruled.

The judgment of the trial court is affirmed.

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.

HENDON, P.J., SUNDERMANN and CUNNINGHAM, JJ.

To the Clerk:

Enter upon the Journal of the Court on September 16, 2009

per order of the Court _____.
Presiding Judge