

State of Ohio

Case No. 2004-0485

v.

E N T R Y

Donald J. Ketterer

This cause came on for further consideration upon appellant's application for reopening under S.Ct.Prac.R. XI(6),

It is ordered by the Court that the application is granted with respect to Proposition of Law No. VI; whether appellate counsel was ineffective by failing to challenge the appellant's noncapital sentences as a violation of *Blakely v. Washington* (2004), 542 U.S. 296, and *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470. Judgment vacated as to the noncapital sentences only. In accordance with S.Ct.Prac.R. XI(6)(I), cause remanded to the trial court for resentencing on the noncapital offenses in accordance with *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470.

(Butler County Court of Common Pleas; No. CR2003030309)

---

THOMAS J. MOYER  
Chief Justice