

**THE COURT OF APPEALS**  
**ELEVENTH APPELLATE DISTRICT**

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**LAKE COUNTY, OHIO**

STATE OF OHIO,	:	<b>O P I N I O N</b>
Plaintiff-Appellee,	:	<b>CASE NO. 2009-L-041</b>
- vs -	:	
BRANDON JACKSON-WHITE,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 08 CR 000297.

Judgment: Affirmed.

*Charles E. Coulson*, Lake County Prosecutor, and *Joshua S. Horacek*, Assistant Prosecutor, 105 Main Street, P.O. Box 490, Painesville, OH 44077 (For Plaintiff-Appellee).

*R. Paul LaPlante*, Lake County Public Defender, and *Vanessa R. Clapp*, Assistant Public Defender, 125 East Erie Street, Painesville, OH 44077 (For Defendant-Appellant).

COLLEEN MARY O'TOOLE, J.

{¶1} Appellant, Brandon Jackson-White, appeals from the February 19, 2009 judgment entry of the Lake County Court of Common Pleas, in which he was sentenced for aggravated trafficking in drugs with an accompanying major drug offender specification.

{¶2} On May 16, 2008, appellant was indicted by the Lake County Grand Jury on three counts: count one, aggravated trafficking in drugs, a felony of the first degree,

in violation of R.C. 2925.03(A)(2), with a major drug offender specification pursuant to R.C. 2941.1410; count two, aggravated possession of drugs, a felony of the first degree, in violation of R.C. 2925.11, with a major drug offender specification pursuant to R.C. 2941.1410; and count three, possessing criminal tools, a felony of the fifth degree, in violation of R.C. 2923.24. On September 19, 2008, appellant filed a waiver of his right to be present at the arraignment and the trial court entered a not guilty plea on his behalf.

{¶3} On October 16, 2008, appellant filed a motion to suppress. Appellee, the state of Ohio, filed a brief in opposition on October 31, 2008. A hearing was held on November 17, 2008. Pursuant to its December 19, 2008 judgment entry, the trial court denied appellant's motion to suppress.

{¶4} A change of plea hearing was held on January 15, 2009. Appellant withdrew his former not guilty plea and entered an oral and written plea of guilty to count one, aggravated trafficking in drugs, a felony of the first degree, in violation of R.C. 2925.03(A)(2), with a major drug offender specification pursuant to R.C. 2941.1410. On January 21, 2009, the trial court accepted appellant's guilty plea to count one, and entered a nolle prosequi to the remaining two counts in the indictment. The trial court deferred sentencing, referred the matter to the Adult Probation Department for a presentence investigation and report, and ordered that appellant submit a DNA sample at the time of his presentence interview.

{¶5} Pursuant to its February 19, 2009 judgment entry, the trial court sentenced appellant to ten years in prison on count one, with one hundred fifty-five days of credit for time already served, plus an additional term of two years to be served consecutive to

count one, for a total of twelve years. The trial court also suspended appellant's driver's license for five years, and notified appellant that post release control is mandatory for five years. It is from that judgment that appellant filed a timely appeal, raising the following assignment of error for our review:

{¶6} "THE TRIAL COURT ERRED BY IMPOSING AN ADDITIONAL TWO-YEAR PRISON TERM UNDER THE MAJOR DRUG OFFENDER SPECIFICATION IN VIOLATION OF THE DEFENDANT-APPELLANT'S DUE PROCESS RIGHTS UNDER THE FIFTH AND FOURTEENTH AMENDMENTS TO THE U.S. CONSTITUTION AND SECTION 10, ARTICLE I OF THE OHIO CONSTITUTION."

{¶7} In his sole assignment of error, appellant argues that the trial court erred by imposing an additional two-year prison term under the major drug offender specification in violation of his due process rights. Appellant maintains that sentencing enhancements for major drug offenders were eliminated by the Supreme Court of Ohio's decision in *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, as demonstrated by *State v. Chandler*, 109 Ohio St.3d 223, 2006-Ohio-2285.

{¶8} This court has previously considered and rejected this exact argument. Sentencing enhancements for major drug offenders pursuant to R.C. 2929.14(D)(3) remain valid. *State v. Adams*, 11th Dist. No. 2006-L-114, 2007-Ohio-2434, at ¶22-27; *State v. Kidd*, 11th Dist. No. 2006-L-193, 2007-Ohio-4113, at ¶85-86; *State v. Garner*, 11th Dist. No. 2007-L-041, 2007-Ohio-5914, at ¶86-87.

{¶9} For the foregoing reasons, appellant's sole assignment of error is not well-taken. The judgment of the Lake County Court of Common Pleas is affirmed. The court

finds there were reasonable grounds for this appeal.

MARY JANE TRAPP, P.J.,

CYNTHIA WESTCOTT RICE, J.,

concur.