

IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
PORTAGE COUNTY, OHIO

STATE OF OHIO,	:	O P I N I O N
Plaintiff-Appellee,	:	
- VS -	:	CASE NO. 2010-P-0034
CHRISTINA R. FRANCO,	:	5/27/11
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 2009 CR 0781.

Judgment: Affirmed.

Victor V. Vigluicci, Portage County Prosecutor, and *Pamela J. Holder*, Assistant Prosecutor, 241 South Chestnut Street, Ravenna, OH 44266 (For Plaintiff-Appellee).

Patricia J. Smith, 114 Barrington Town Square, Suite 188, Aurora, OH 44202 (For Defendant-Appellant).

TIMOTHY P. CANNON, P.J.

{¶1} Appellant, Christina R. Franco, appeals the judgment of the Portage County Court of Common Pleas. For the reasons that follow, we affirm the judgment of the trial court.

{¶2} Appellant pled guilty to two counts of complicity to robbery, felonies of the second degree. Appellant was sentenced to serve four years on each count of robbery, each to be served consecutively. Consequently, appellant was sentenced to an eight-year term of imprisonment.

{¶3} Appellant filed a timely notice of appeal and asserts the following assignment of error:

{¶4} “The trial court erred by sentencing the appellant to serve consecutive sentences without submitting reasons in support pursuant to R.C. 2929.14(E).”

{¶5} Appellant maintains that the trial court erred in her sentencing, as it failed to make the required findings of fact to support the consecutive sentences. Appellant maintains that R.C. 2929.14(E) requires the trial court to make factual findings prior to imposing consecutive sentences.

{¶6} In *State v. Dohm*, 11th Dist. No. 2009-L-076, 2011-Ohio-1160, this court addressed whether a trial court is required to make factual findings prior to imposing consecutive sentences. We stated that the Supreme Court’s holding in *Oregon v. Ice* (2009), 129 S.Ct. 711, “did not automatically revive the requirements of R.C. 2929.14(E)(4)[.]” *Dohm*, supra, at ¶38.

{¶7} In *Ice*, the Supreme Court determined the Sixth Amendment to the United States Constitution is not violated when a state statute requires a judge, rather than a jury, to make factual findings prior to imposing consecutive sentences for multiple offenses. *Id.* at 716-720.

{¶8} In *State v. Hodge*, 128 Ohio St.3d 1, 2010-Ohio-6320, the Supreme Court of Ohio was asked to resolve the specific effect of *Ice* on Ohio’s post-*Foster* felony sentencing law. The Court framed the issue as follows:

{¶9} “[W]hether, as a consequence of the decision in *Ice*, Ohio trial courts imposing consecutive sentences must first make the findings specified in R.C.

2929.14(E)(4) in order to overcome the presumption for concurrent sentences in R.C. 2929.41(A).” *Hodge*, supra, at ¶9.

{¶10} In answering the question in the negative, the court held:

{¶11} “1. The jury-trial guarantee of the Sixth Amendment to the United States Constitution does not preclude states from requiring trial court judges to engage in judicial fact-finding prior to imposing consecutive sentences. ***

{¶12} “2. The United States Supreme Court’s decision in *Oregon v. Ice* *** does not revive Ohio’s former consecutive-sentencing statutory provisions, R.C. 2929.14(E)(4) and R.C. 2929.41(A), which were held unconstitutional in *State v. Foster* ***.

{¶13} “3. Trial court judges are not obligated to engage in judicial fact-finding prior to imposing consecutive sentences unless the General Assembly enacts new legislation requiring that findings be made.” *Hodge*, supra, paragraphs one, two, and three of the syllabus.

{¶14} As there is no statutory requirement that a trial court judge make findings of fact prior to imposing consecutive sentences, we find appellant’s sole assignment of error without merit. The judgment of the Portage County Court of Common Pleas is hereby affirmed.

MARY JANE TRAPP, J.,

THOMAS R. WRIGHT, J.,

concur.