

[Cite as *State v. Fisher*, 2012-Ohio-2394.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 97685

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

ARTURO FISHER

DEFENDANT-APPELLANT

**JUDGMENT:
AFFIRMED**

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-499991

BEFORE: Stewart, P.J., Boyle, J., and Rocco, J.

RELEASED AND JOURNALIZED: May 31, 2012

FOR APPELLANT

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ATTORNEYS FOR APPELLEE

William D. Mason
Cuyahoga County Prosecutor

BY: James M. Price
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MELODY J. STEWART, P.J.:

{¶1} This case came to be heard upon the accelerated calendar pursuant to App.R. 11.1 and Loc.R. 11.1, the record from the Cuyahoga County Court of Common Pleas, and the briefs and oral arguments of counsel.

{¶2} Defendant-appellant Arturo Fisher filed a postsentence motion for resentencing from his 2008 conviction for rape with a sexually violent predator specification. The court sentenced Fisher to a prison term of ten years to life, and Fisher's motion argued that the sentence was void because he was found guilty of committing rape under R.C. 2907.02(A)(2) and that a life sentence could only be imposed for those offenders who violated R.C. 2907.02(A)(1).

{¶3} The court correctly rejected Fisher's arguments because the sexually violent predator specification meant that he had to be sentenced pursuant to R.C. 2971.03(A)(3)(d)(ii). That section required the court to "impose an indefinite prison term consisting of a minimum term fixed by the court that is not less than ten years, and a maximum term of life imprisonment." Fisher's sentence, ten years to life, fell within the statutory limit and was, in fact, the minimum sentence that the court could impose.

{¶4} Judgment affirmed.

It is ordered that appellee recover of appellant its costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the Cuyahoga County Court of Common Pleas to carry this judgment into execution. The

defendant's conviction having been affirmed, any bail pending appeal is terminated.

Case remanded to the trial court for execution of sentence.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

MELODY J. STEWART, PRESIDING JUDGE

MARY J. BOYLE, J., and
KENNETH A. ROCCO, J., CONCUR