

SUPREME COURT OF OHIO

State v. Bates

118 Ohio St. 3d 174 (Ohio 2008) · Decided May 1, 2008

SUMMARY

The Ohio Supreme Court held that, after *State v. Foster* severed certain consecutive-sentencing provisions, a trial court has discretion and inherent authority to order a prison sentence to run consecutively to a sentence previously imposed on the same offender by another Ohio court. The court affirmed the judgment of the Miami County Court of Appeals, concluding that no statutory or common-law impediment barred the consecutive sentence.

CASE DETAILS

|                       |                                                                                                                                                                                            |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Ohio                                                                                                                                                                      |
| WRITING FOR THE COURT | Cupp, J.; Moyer, C.J.; Pfeifer, J.; Lundberg Stratton, J.; O'Connor, J.; O'Donnell, J.; Lanzinger, J.                                                                                      |
| JURISDICTION          | Ohio                                                                                                                                                                                       |
| DECIDED               | May 1, 2008                                                                                                                                                                                |
| DISPOSITION           | affirmed                                                                                                                                                                                   |
| PROCEDURAL POSTURE    | Certified-conflict case and discretionary appeal concerning whether a trial court may order a prison sentence to run consecutively to a sentence previously imposed by another Ohio court. |
| STANDARD OF REVIEW    | De novo review of the legal question concerning the trial court's sentencing authority.                                                                                                    |
| PRECEDENTIAL VALUE    | Published, binding decision of the Supreme Court of Ohio                                                                                                                                   |
| PARTIES               | Robert Bates v. State of Ohio                                                                                                                                                              |

TOPICS

- sentencing
- criminal procedure
- statutory interpretation
- severability
- constitutional law

PRACTICE AREAS

- criminal law
- criminal procedure
- sentencing

QUESTIONS PRESENTED

1. Whether, after *State v. Foster* severed former R.C. 2929.14(E)(4) and former R.C. 2929.41(A), a trial court has authority to order a prison sentence for a new felony conviction to run consecutively to a prison sentence previously imposed on the same offender by another Ohio court.

## HOLDINGS

1. After *Foster* severed and excised former R.C. 2929.14(E)(4) and former R.C. 2929.41(A), a trial court has the discretion and inherent authority to order a prison sentence within the statutory range to run consecutively to a prison sentence previously imposed on the same offender by another Ohio court.

## KEY QUOTATIONS

*“the trial court has the authority to order a prison sentence to be served consecutively to a prison sentence previously imposed on the same offender by another Ohio court.”* (118 Ohio St. 3d at 174)

*“Accordingly, the trial court now has the discretion and inherent authority to determine whether a prison sentence within the statutory range shall run consecutively or concurrently”* (118 Ohio St. 3d at 179)

## FACTUAL BACKGROUND

Before 2005, the Montgomery County Common Pleas Court sentenced Robert Bates to ten years in prison. In 2005, Bates pleaded no contest to additional felonies in Miami County, where the court imposed three concurrent three-year prison terms within the statutory range. The Miami County court ordered those terms to run consecutively to Bates's previously imposed Montgomery County sentence, pursuant to a joint sentencing recommendation by Bates and the state.

## PROCEDURAL HISTORY

Bates pleaded no contest to additional felonies in the Miami County Common Pleas Court. That court imposed three concurrent three-year prison terms to run consecutively to a ten-year sentence previously imposed by the Montgomery County Common Pleas Court. The Miami County Court of Appeals affirmed and certified a conflict with an appellate decision from the Fifth District. The Supreme Court of Ohio determined that a conflict existed, accepted Bates's discretionary appeal, consolidated the matters, and affirmed the appellate judgment.

## DISPOSITION

affirmed

## CASES CITED

- *State v. Bates*, Miami App. No. 06-CA-08, 2006-Ohio-7086, 2006 WL 3849078
- *State v. Thompson*, 5th Dist. No. 01CA62, 2002-Ohio-4717, 2002 WL 31013641
- *State v. Foster*, 109 Ohio St. 3d 1, 2006-Ohio-856, 845 N.E.2d 470
- *Woods v. Telb*, 89 Ohio St. 3d 504, 507-508, 733 N.E.2d 1103 (2000)
- *Blakely v. Washington*, 542 U.S. 296, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004)
- *State v. Jones*, 49 Ohio St. 3d 51, 52, 550 N.E.2d 469 (1990)

- State v. Morris, 55 Ohio St. 2d 101, 112, 378 N.E.2d 708 (1978)
- State v. O'Mara, 105 Ohio St. 94, 136 N.E. 885 (1922)
- Stewart v. Maxwell, 174 Ohio St. 180, 187 N.E.2d 888 (1963)
- State ex rel. Stratton v. Maxwell, 175 Ohio St. 65, 191 N.E.2d 549 (1963)
- Henderson v. James, 52 Ohio St. 242, 254-255, 39 N.E. 805 (1895)
- State v. Johnson, 116 Ohio St. 3d 541, 2008-Ohio-69, 880 N.E.2d 896

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