



**LORAIN COUNTY COURT OF COMMON PLEAS**  
**LORAIN COUNTY, OHIO**  
**JOURNAL ENTRY**  
**Hon. D. Chris Cook, Judge**

Date June 7, 2017

Case No. 07CR073527

STATE OF OHIO

Plaintiff

Paul Griffin

Plaintiff's Attorney

VS

MARLON J. JOHNSON

Defendant

Defendant's Attorney

This matter is before the Court as it has come to the Court's attention that the Defendant was never sentenced on this case, despite begin found "Guilty" on Count 3, D.U.S., in violation of RC 4510.11, M-1, on September 26, 2007.

A recent case from the First District Court of Appeals authored by Presiding Judge Fisher (now Justice Fisher) is instructive. In *State v. Ventura*, 2016-Ohio-5151, 12<sup>th</sup> Dist., Case No. C-150495, the court stated, "Crim. R. 32(A) provides that "sentence shall be imposed without unnecessary delay." *Id.* at ¶ 22. In addressing delayed-sentencing claims under Crim. R. 32(A), Ohio appellate courts have looked to the Ohio Supreme Court's opinion in *Neal v. Maxwell*, 175 Ohio St. 201, 192 N.E.2d 782 (1963)."

"In *Neal*, the Ohio Supreme Court stated that, "the time of pronouncing sentence is within the discretion of the trial court, and a delay for a reasonable time does not invalidate the sentence." Ohio appellate courts have taken this statement in *Neal* and inferred that while a reasonable delay does not invalidate a sentence, an unreasonable delay in sentencing can invalidate a defendant's sentence. *See* \*195 *State v. Brown*, 152 Ohio App.3d 8, 2003-Ohio-1218, 786 N.E.2d 492, ¶ 20 (7th Dist.)." *Id.* at ¶ 23.

Appellate courts have "uniformly concluded that any delay in sentencing must be reasonable in order to be valid." *Id.* Where there has been an unreasonable delay in sentencing, Ohio appellate courts have concluded that the trial court has no jurisdiction to sentence the defendant. *Id.* at ¶ 31; *see also Willoughby v. Lukehart*, 39 Ohio App.3d 74, 76, 529 N.E.2d 206 (1987) (holding that an unjustified and lengthy delay of 12 months between the jury's finding of guilt and defendant's sentence deprived the trial court of jurisdiction to impose a sentence)." *Id.* at ¶ 31.



In the case at bar, the Defendant was convicted on September 26, 2007, *almost ten years ago* and has never been sentenced!

Accordingly, because of the inapposite, unreasonable delay in sentencing the Defendant in contravention of Crim. R 32(A) and *Neal* and its progeny, this Court finds that it no longer has jurisdiction to sentence the Defendant, though the conviction for D.U.S. shall remain in full force and effect.

IT IS SO ORDERED. No Record. Case Closed; costs assessed to the State.

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JUDGE D. Chris Cook

cc: Griffin, APA  
Defendant