

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-070305
	:	TRIAL NO. B-0410106
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
DAVID A. PATRICK,	:	
	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Defendant-appellant, David A. Patrick, appeals the judgment of the Hamilton County Court of Common Pleas convicting him of aggravated robbery under R.C. 2911.01(A)(1) and robbery under R.C. 2911.02(A)(2), both with specifications.

Patrick was convicted of the offenses after a jury trial. The trial court sentenced him to 10 years' imprisonment for aggravated robbery and eight years' incarceration for robbery, along with terms of incarceration for the specifications.

This court has previously affirmed the convictions,² but we have permitted Patrick to reopen his appeal. In a single assignment of error, Patrick now argues that the trial court erred in convicting him of both aggravated robbery and robbery. Specifically, he argues that the offenses were allied offenses of similar import.

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

² *State v. Patrick* (Feb. 20, 2008), 1st Dist. No. C-070305.

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The state concedes that because the offenses in this case were committed with a single animus against a single victim, the offenses were allied under the authority of *State v. Harris*.³ Accordingly, we sustain the assignment of error, vacate the sentences, and remand the cause for resentencing on one offense only.⁴ In all other respects, the judgment of the trial court is affirmed.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HILDEBRANDT, P.J., SUNDERMANN and DINKELACKER, JJ.

To the Clerk:

Enter upon the Journal of the Court on November 10, 2009
per order of the Court _____.
Presiding Judge

³ 122 Ohio St.3d 373, 2009-Ohio-3323, 911 N.E.2d 882, ¶17.

⁴ Id. at ¶21.