

Branstool Violated Riggleman's constitutional right to due process

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<http://www.newarkadvocate.com/article/20131114/NEWS01/311140040/Appeals-court-reverses-Licking-County-drug-trafficking-sentence?odyssey=obinsite>

NEWARK — The 5th District Court of Appeals reversed a two-year prison sentence handed down by a Licking County Common Pleas judge earlier this year.

The appeals court issued its opinion Tuesday and ordered David S. Riggleman's case be sent back to Licking County for resentencing.

According to the justices' opinion, Common Pleas Judge David Branstool had noted in Riggleman's sentencing in July that Riggleman had been charged with additional crimes while out on bond. Branstool sentenced Riggleman to two years in prison for two counts of fourth-degree felony aggravated trafficking in drugs in April.

Because Riggleman's new case was still pending and had yet to be resolved at the time of his sentencing in the drug case, it could not have been factored against him in the sentence handed down by Branstool.

Riggleman was sentenced to nine months in prison on the new charges, which included tampering with evidence.

The appeals court ruled that Branstool "violated Riggleman's constitutional right to due process."

Branstool said Thursday he believed the appeals court was misapplying the law in their opinion.

"I think the Court of Appeals got it wrong," he said.

Branstool said he believed the court overlooked his finding that Riggleman had violated his bond by not appearing for presentence investigation interview.

Branstool said he hoped a motion to reconsider or an appeal would be filed by the Licking County Prosecutor's office. No such motion was filed Thursday.

No date has been set for resentencing.