# CAPTION: State v. Morris

**12-20-23**

APPEAL NOS.: C-220651

C-220652

TRIAL NOS.: B-2202075

B-2005829

KEY WORDS: Ineffective Assistance of Counsel – Evidence – Constructive possession – Manifest weight – Sufficiency – Consecutive Sentences

SUMMARY:

Trial counsel was not ineffective for stating to the trial judge in a bench trial that, “we have no defense,” which was a comment on the impact of the unavailability of a defense witness and not an admission of guilt, nor was counsel ineffective for declining to cross-examine state witnesses about the lack of DNA or fingerprint evidence.

The finding of guilt based on constructive possession of drugs and a firearm was supported by sufficient evidence and was not against the manifest weight of the evidence where drugs and a firearm were discovered in an apartment that was under the control and dominion of defendant and the evidence suggested that no one else lived in the apartment.

The trial court did not err in imposing consecutive sentences where it stated its findings on the record that demonstrated that the court considered the statutory factors, but the cause must be remanded for a nunc pro tunc entry so that the sentencing entry can be corrected to reflect the required findings.

JUDGMENTS: Affirmed and Cause Remanded

JUDGES: Opinion by Crouse, P.J.; Winkler and Bock, JJ., concur.