

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

Rodney Knuckles,	:	
Plaintiff-Appellant,	:	
v.	:	No. 18AP-890 (C.P.C. No. 18CV-7230)
State of Ohio,	:	(REGULAR CALENDAR)
Defendant-Appellee.	:	

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D E C I S I O N

Rendered on March 26, 2019

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**On brief:** *Rodney Knuckles*, pro se.

**On brief:** [*Dave Yost*], Attorney General; *Zachery P. Keller*  
and *J. Andrew Fraser*, for appellee.

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APPEAL from the Franklin County Court of Common Pleas

BRUNNER, J.

{¶ 1} Plaintiff-appellant, Rodney Knuckles, appeals an October 22, 2018 decision and entry of the Franklin County Court of Common Pleas, dismissing his declaratory judgment action brought for the purpose of collaterally attacking his prior burglary conviction. Because a declaratory judgment action is not an appropriate means to collaterally attack a criminal conviction, we affirm the dismissal.

**I. FACTS AND PROCEDURAL HISTORY**

{¶ 2} On August 24, 2018, Knuckles filed a declaratory judgment action requesting that the trial court issue a ruling finding a conflict between a prior appellate decision in his criminal case from the Ninth District Court of Appeals (*State v. Knuckles*, 9th Dist. No. 27571, 2015-Ohio-2840) and a decision from the Fourth District Court of Appeals (*State v. Klein*, 4th Dist. No. 15CA12, 2016-Ohio-5315). (Aug. 24, 2018 Compl. at 2-3.) Specifically, in *Knuckles*, the Ninth District held that res judicata precluded Knuckles from asserting

error related to the trial court's failure to consider a presentence investigation report before imposing community control. *Knuckles* at ¶ 7-12. The Fourth District decision in *Klein* was at odds with this holding, declining to follow *Knuckles*. *Klein* at ¶ 24. Though the relief *Knuckles* has sought in his declaratory judgment complaint before the Franklin County Court of Common Pleas is somewhat difficult to understand, we discern that *Knuckles* has requested that the Franklin County Court of Common Pleas issue a declaration resolving the conflict between appellate districts in his favor and ordering reversal of his original criminal sentence.

{¶ 3} On September 20, 2018, the defendant-appellee, State of Ohio, moved to dismiss the declaratory judgment action as not being appropriate for *Knuckles* to collaterally attack his criminal conviction. (Sept. 20, 2018 Mot. to Dismiss.) After the matter was fully briefed, the trial court ruled in favor of the State. (Oct. 22, 2018 Decision & Entry.) *Knuckles* now appeals.

## II. ASSIGNMENT OF ERROR

{¶ 4} *Knuckles* asserts a single assignment of error for review:

On 10-22-2018, the trial Court Erred and abused it's[sic] discretion when it dismissed Plaintiff's Declaratory Judgment Complaint pursuant to a CIV[.] R. 12(B)(6) Motion For Failure to State a Claim without declaring Plaintiff's rights and obligations.

## III. DISCUSSION

{¶ 5} One who reasonably fears that his or her conduct or planned future conduct may violate the law is entitled to seek declaratory judgment. *See, e.g., Peltz v. S. Euclid*, 11 Ohio St.2d 128 (1967). In such cases, "[t]he validity, construction and application of criminal statutes and ordinances are appropriate subjects for a declaratory judgment action." *Id.* at 131, paragraph one of the syllabus. However:

[I]t is well settled that declaratory judgment is not a proper vehicle for determining whether rights that were previously adjudicated were properly adjudicated. *Clark v. Memolo*, 174 F.2d 978, 981, 85 U.S. App. D.C. 65 (D.C.Cir.1949); *Olney v. Ohio*, 341 F.2d 913 (6th Cir.1965); *Shannon v. Sequechi*, 365 F.2d 827, 829 (10th Cir.1966); *Wilson v. Collins*, 10th Dist. Franklin No. 10AP-511, 2010-Ohio-6538, ¶ 9; *State v. Brooks*, 133 Ohio App.3d 521, 525, 728 N.E.2d 1119 (4th Dist.1999); *Moore v. Mason*, 8th Dist. Cuyahoga No. 84821, 2005-Ohio-1188, ¶ 14; *Gotel v. Ganshiemer*, 11th Dist. Ashtabula No.

2008-A-0070, 2009-Ohio-5423, ¶ 44; *Burge v. Ohio Atty. Gen.*, 10th Dist. Franklin No. 10AP-856, 2011-Ohio-3997, ¶ 10. For direct and collateral attacks alike, declaratory judgment is simply not a part of the criminal appellate or postconviction review process. *Wilson* at ¶ 9; *Brooks* at 525-526; *Moore* at ¶ 14; *Gotel* at ¶ 44. Ohio's Criminal Rules and statutes provide for the direct review of criminal judgments through appeal, and collateral attacks through postconviction petitions, habeas corpus, and motions to vacate. *Ohio Pyro, Inc. v. Ohio Dept. of Commerce*, 115 Ohio St.3d 375, 2007-Ohio-5024, 875 N.E.2d 550, ¶ 20. A declaratory-judgment action cannot be used as a substitute for any of these remedies. *Clark* at 981; *Shannon* at 829; *Wilson* at ¶ 9; *Moore* at ¶ 14; *Gotel* at ¶ 44; *Burge* at ¶ 10.

*Lingo v. State*, 138 Ohio St.3d 427, 2014-Ohio-1052, ¶ 44.

{¶ 6} In this case, Knuckles is not seeking to ensure the legality of some ongoing or planned future conduct via a declaratory judgment determining the "validity, construction and application of criminal statutes." *Peltz* at 131. Rather, Knuckles is the one who was convicted of burglary who now seeks to collaterally attack his conviction by challenging through a declaratory judgment action the efficacy of an appellate decision that affirmed his conviction. (Aug. 24, 2018 Compl. at 3.) *Knuckles* at ¶ 2-3, 7-12. Knuckles' attempted collateral action falls squarely into the prohibited use explained by *Lingo*. We agree with the trial court that dismissal of Knuckles' action was required and thus we overrule Knuckles' sole assignment of error.

#### IV. CONCLUSION

{¶ 7} While a declaratory judgment action may be used prospectively to determine the validity, construction, and application of criminal laws, it may not be used to collaterally attack a criminal conviction and sentence. Knuckles' attempt to use the action in this case properly resulted in dismissal. We, therefore, affirm the judgment of the Franklin County Court of Common Pleas.

*Judgment affirmed.*

LUPER SCHUSTER and BEATTY BLUNT, JJ., concur.

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