

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio,	:	
	:	
Plaintiff-Appellee,	:	
	:	No. 12AP-995
v.	:	(C.P.C. No. 00CR-12-7247)
	:	
Richard Ranson,	:	(ACCELERATED CALENDAR)
	:	
Defendant-Appellant.	:	

D E C I S I O N

Rendered on May 7, 2013

Ron O'Brien, Prosecuting Attorney, and *Barbara A. Farnbacher*, for appellee.

Richard Ranson, pro se.

APPEAL from the Franklin County Court of Common Pleas.

McCORMAC, J.

{¶ 1} Richard Ranson, defendant-appellant, filed a "Motion To Impose A Valid Sentences Into The Franklin County Court of Common Pleas" [sic] on July 2, 2012. The trial court ruled upon the motion on October 22, 2012, holding that, in essence, appellant's motion is a petition for post-conviction relief and should be ruled as untimely in accordance with the time limits set forth in R.C. 2953.21(A)(2).

{¶ 2} R.C. 2953.21(A)(2) requires timely filing of a petition for post-conviction relief, which time has long since expired, except as otherwise provided in R.C. 2953.23. R.C. 2953.23(A)(1)(a) extends the time when petitioner can show that he was unavoidably prevented from the discovery of the facts upon which he must rely to present the claim for relief or that the United States Supreme Court recognized a new federal or state right that applies retroactively to petitioner's claim based on that right. In addition (both are

required, in R.C. 2953.13(A)(1)(b)), petitioner must show by clear and convincing evidence that, but for the constitutional error at trial, no reasonable fact finder would have found petitioner guilty of the offense of which he was convicted.

{¶ 3} In explanation thereof, the trial court held that appellant had not shown that he was delayed in discovering new information regarding his case or pertinent information that was outside the record, and that the United States Supreme Court has not recognized a new constitutional right that applies to appellant retroactively. The trial court denied appellant's motion. Appellant has appealed setting forth the following assignments of error:

[I.] The trial court erred when it entered judgment against the defendant when the evidence was insufficient to sustain a conviction and the conviction was not supported by the manifest weight of the evidence as to the aggravated robbery, robbery and felonious assault.

[II.] The trial court's findings at the sentencing hearing were insufficient to comply with the statutory requirements of section 2929.14(E)(4) and R.C. 2941.25.

{¶ 4} The principle issue posed by appellant is whether the trial court correctly denied his motion to impose a valid sentence. The motion is without merit, and the trial court did not err in denying the motion, as well as the allied claims of insufficiency of evidence to sustain the convictions or that the convictions were not supported by the manifest weight of the evidence as to the aggravated robbery, robbery, and felonious assault offenses.

{¶ 5} In its decision, the trial court summarized the history of this case. On December 22, 2000, appellant was indicted on 20 different counts in case No. 00CR-12-7247. The case proceeded to trial before a jury on July 25, 2001, and on August 2, the jury found appellant guilty of 19 counts. The trial court imposed an aggregate sentence of 27 years in prison. Appellant's appeal to this court resulted in an affirmance of his convictions, but reversed the sentence and remanded the case for resentencing based on a failure to make the then-applicable statutory sentencing findings under R.C. 2929.14. *State v. Ranson*, 10th Dist. No. 01AP-1049, 2002-Ohio-2389. The Tenth District Court of

Appeals' decision was appealed to the Supreme Court of Ohio, which declined to review his case. *State v. Ranson*, 96 Ohio St.3d 1515, 2002-Ohio-4950.

{¶ 6} On July 11, 2003, the trial court resentenced appellant to an aggregate 21-year prison term in addition to financial sanctions. Appellant did not file a timely appeal, but, instead, filed a motion for delayed appeal, which was denied. *State v. Ranson*, 10th Dist. No. 04AP-1303 (Feb. 3, 2005). Appellant has filed numerous post-conviction petitions, which have all been denied.

{¶ 7} The instant motion was filed on July 2, 2012 and challenged the validity of appellant's sentence based on a purported merger claim.

{¶ 8} Appellant claims that the trial court's resentencing decision is erroneous because all 19 counts of which he was convicted should have merged under R.C. 2941.25, creating an aggregate maximum sentence of ten years in prison. Additionally, in this court, appellant has also raised claims challenging the sufficiency and weight of the evidence and trial counsel's ineffectiveness.

{¶ 9} We believe that the trial court properly treated the "Motion to Impose a Valid Sentence" as a post-conviction petition subject to the time periods applicable thereto. It is the nature of the petition, not a creative title that matters. In any event, all of appellant's claims are barred by the doctrine of res judicata. The doctrine of res judicata bars review of any claim that a defendant could have raised in the trial court before conviction or on appeal after conviction. *State v. Perry*, 10 Ohio St.2d 175 (1967).

{¶ 10} In this case, appellant filed a timely, direct appeal and failed to raise this sentencing issue. He also filed multiple prior collateral attacks and failed to raise this issue.

{¶ 11} "Post-conviction relief is a narrow remedy that affords appellant no rights beyond those granted by statute." *State v. Dixon*, 10th Dist. No. 10AP-75, 2010-Ohio-3894, ¶ 5. The post-conviction relief statute provides only a limited opportunity to collaterally attack a conviction, not an opportunity to allow inmates to relitigate the issues previously resolved at trial. *State v. Prade*, 126 Ohio St.3d 27, 2010-Ohio-1842. Appellant's claim that his convictions were not supported by sufficient evidence or by the weight of the evidence have been reviewed and rejected by this court and cannot be relitigated. Furthermore, appellant did not raise a sufficiency/weight claim in the trial

court in this case so he is precluded from raising it in this appeal from the denial of his motion. *See State v. Long*, 53 Ohio St.2d 91, 96 (1978). Also, appellant's challenge to counsel's representation as being ineffective cannot be raised for the first time in this appeal.

{¶ 12} In summary, *res judicata* disposes of all of appellant's claims, including his claim that the trial court converted his creative motion to another post-conviction proceeding.

{¶ 13} Lastly, appellant's claim that all 19 counts of which he was convicted should have merged creating an aggregate total possible sentence of only ten years in prison lacks merit. In previous cases, the trial court imposed the following consecutive sentences: Count 1, aggravated robbery, a first-degree felony; Count 7, felonious assault, a first-degree felony; Count 12, aggravated possession of Oxycodone, a second-degree felony; and Count 16, aggravated possession of Morphine Sulfate, a fifth-degree felony. All other 15 charges were either merged with these counts or ordered to run concurrently.

{¶ 14} None of the four charges were ordered to be served consecutively or were allied offenses of similar import. Appellant was convicted for taking part in an aggravated robbery of a Groveport pharmacy. After fleeing the store, appellant and his accomplices were engaged in a high-speed pursuit that only ended after their getaway van crashed into two police cruisers. *Ranson*, 2002-Ohio-2389. Appellant's convictions for aggravated robbery, felonious assault, and possession of different drugs were not of similar import, were dissimilar, or were based on separate conduct. The trial court properly imposed separate sentences for those convictions. Appellant's merger argument lacks merit substantively.

{¶ 15} Appellant's assignments of error are overruled and the judgment of the Franklin County Court of Common Pleas is affirmed.

Judgment affirmed.

TYACK and DORRIAN, JJ., concur.

McCORMAC, J., retired, formerly of the Tenth Appellate District, assigned to active duty under authority of the Ohio Constitution, Article IV, Section 6(C).
