

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio,	:	
	:	
Plaintiff-Appellee,	:	
	:	No. 14AP-138
v.	:	(C.P.C. No. 11CR10-5529)
	:	
Frederick Nyarko,	:	(REGULAR CALENDAR)
	:	
Defendant-Appellant.	:	

D E C I S I O N

Rendered on February 10, 2014

Ron O'Brien, Prosecuting Attorney, and *Sheryl L. Prichard*,
for appellee.

Frederick Nyarko, pro se.

APPEAL from the Franklin County Court of Common Pleas

KLATT, J.

{¶ 1} Defendant-appellant, Frederick Nyarko, appeals from a judgment of the Franklin County Court of Common Pleas. For the following reasons, we affirm that judgment.

I. Factual and Procedural Background

{¶ 2} On June 18, 2012, after entering a guilty plea, the trial court found appellant guilty of one count of attempted conspiracy to commit murder. The trial court sentenced appellant to a six-year prison term. The trial court also ordered appellant to pay court costs as well as restitution to the victims of his offense. The trial court ordered the restitution pursuant to an agreement that appellant would pay such restitution in lieu of a fine. Appellant did not appeal his conviction or sentence.

{¶ 3} On December 24, 2013, however, appellant filed a pro se motion to vacate or set aside his judgment of conviction or sentence. Appellant presented arguments

concerning the trial court's imposition of court costs and restitution and his counsel's failure to advise him about those issues. The trial court denied appellant's motion.

II. Appellant's Appeal

{¶ 4} Appellant appeals and assigns the following errors:

[1.] The trial court erred in Ordering Defendant to pay restitution as part of sentence because a hearing on restitution was required by RC 2929.18(A)(1) where restitution was disputed.

[2.] The trial court abused its discretion in Ordering restitution without holding a hearing to determine the appropriate amount of that restitution.

{¶ 5} Appellant argues in both assignments of error that the trial court erred by not complying with Ohio laws when making its restitution determination. Because res judicata bars these claims, we address them together.

{¶ 6} The doctrine of res judicata bars the assertion of claims against a valid, final judgment of conviction that have been raised or could have been raised on appeal. *State v. Ketterer*, 126 Ohio St.3d 448, 2010-Ohio-3831, ¶ 59, citing *State v. Perry*, 10 Ohio St.2d 175 (1967), paragraph nine of the syllabus.

{¶ 7} Issues regarding the determination of restitution are matters that could have been raised in a direct appeal from appellant's conviction. *State v. Anderson*, 10th Dist. No. 14AP-61, 2014-Ohio-3699, ¶ 10; *State v. Call*, 3d Dist. No. 9-04-29, 2004-Ohio-5645, ¶ 6. Because appellant did not appeal from that conviction, res judicata bars the consideration of those issues now. *State v. Musselman*, 2d Dist. No. 25295, 2013-Ohio-1584, ¶ 25; *State v. Bonanno*, 3d Dist. No. 1-02-21, 2002-Ohio-4005, ¶ 13. Accordingly, we overrule appellant's two assignments of error.

III. Conclusion

{¶ 8} Having overruled appellant's two assignments of error, we affirm the judgment of the Franklin County Court of Common Pleas.

Judgment affirmed.

TYACK and DORRIAN, JJ., concur.
