

IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
ASHTABULA COUNTY, OHIO

STATE OF OHIO,	:	O P I N I O N
Plaintiff-Appellee,	:	
- VS -	:	CASE NO. 2011-A-0076
ARTHUR A. GRENTER,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Ashtabula County Court of Common Pleas, Case No. 2007 CR 433.

Judgment: Affirmed.

Thomas L. Sartini, Ashtabula County Prosecutor, and *Shelley M. Pratt*, Assistant Prosecutor, Ashtabula County Courthouse, 25 West Jefferson Street, Jefferson, OH 44047-1092 (For Plaintiff-Appellee).

Arthur A. Grenter, pro se, PID: 552-453, Marion Correctional Institution, P.O. Box 57, Marion, OH 43301-0057 (Defendant-Appellant).

MARY JANE TRAPP, J.

{¶1} Appellant, Arthur A. Grenter, appeals from a *nunc pro tunc* judgment entry of the Ashtabula County Court of Common Pleas, which sets forth the amount of restitution imposed on Mr. Grenter in open court during his sentencing hearing. Mr.

Grenter, however, raises no assignments of error in connection with the *nunc pro tunc* entry. Because the matters Mr. Grenter does raise on appeal are barred by the doctrine of res judicata, we affirm the decision of the trial court

Substantive Facts and Procedural History

{¶2} On June 9, 2008, Mr. Grenter was found guilty, by way of an *Alford* plea, of Complicity to Arson in violation of R.C. 2923.03(A)(1) and 2909.03(A)(a)(b)(2)(b), and Attempted Felonious Assault in violation of R.C. 2923.02(A) and 2903.11(A). A sentencing hearing was held on August 6, 2008, during which Mr. Grenter was sentenced to an aggregate term of six and one-half years in prison, and ordered to pay restitution in the amount of \$239,989. A judgment entry upon the sentence was filed on August 7, 2008; however, the exact amount of restitution ordered was left out of the entry. No direct appeal was taken.

{¶3} In August 2009, Mr. Grenter filed a Crim.R. 32.1 Motion to Withdraw Plea; his motion was denied for failure to demonstrate manifest injustice, and no direct appeal was taken. Over a year later, on November 8, 2010, Mr. Grenter filed a Motion for a Revised Judgment Entry with the trial court. This motion was denied, and Mr. Grenter timely appealed. In *State v. Grenter*, 11th Dist. No. 2011-A-0013, 2011-Ohio-6003, this court held that the substantive matters Mr. Grenter asserted on appeal were barred by the doctrine of res judicata, and we affirmed the decision of the trial court as to his substantive claims. However, we remanded the case to the trial court “for the very limited purpose of entering a nunc pro tunc judgment entry to reflect the amount of restitution the court imposed upon Mr. Grenter in open court, and on the record, during the sentencing hearing.” (Emphasis added.) *Id.* at ¶1.

{¶4} The trial court issued a *nunc pro tunc* judgment entry on November 22, 2011, reflecting the amount of restitution it had previously ordered Mr. Greuter to pay, in open court and on the record. Mr. Greuter timely appealed, and now brings the following assignments of error:

{¶5} “[1.] The Trial Court structurally erred by failure to dispose of ALL the Merits and Issues that were presented to the Court, and also compounded those errors by exercising hypothetical jurisdiction for the Judgment of Guilt; thereby, the Court of Common Pleas has failed to fully and completely accomplish a valid judgment of conviction upon foundation of the void judgment.”

{¶6} “[2.] The Trial Court erred by a Magistrate accepting the Appellant’s Guilty Plea without Jurisdiction or Authority to do so, Thereby the Appellant’s Guilty Plea is *void ab initio* [sic].”

{¶7} “[3.] The Trial Court erred in accepting the Appellant’s Guilty Plea; therefore, the Appellant’s *Guilty Plea is void* in light of the fact the Plea was not entered knowingly, voluntarily, and intelligently. The Trial Court failed to advise the Appellant completely of the penalties and ramifications associated with the Plea, in violation of the Appellant’s right to Due Process under the 5th& [sic] 14th Amendments of United States Constitution;& [sic] Article I, § 10 of Ohio Constitution.”

{¶8} “[4.] The Defendant was prejudiced by Attorney Danolfo’s deficient performance, and was deprived of his right to effective assistance of Counsel; and the Defendant thereby was deprived of Due Process of Law; Pursuant to the Fifth [5th], Sixth [6th], and Fourteenth [14th], Amendments of the United States Constitution; and Article I, § 10 , and § 16, of the Ohio Constitution.”

{¶9} “[5.] The Trial Court erred when acting without Jurisdiction by the Magistrate’s unsuccessful attempt to invoke Jurisdiction and acceptance of a Guilty Plea in the case of this Felony matter; thus the Appellant’s Guilty Plea was ineffective, accordingly it is a nullity and *void ab initio*.”

{¶10} “[6.] The Trial Court erred when acting without jurisdiction proceeding in Sentencing and Criminal Rule 36 *Nunc Pro Tunc* Entry as well, when the precursor judgment accepting the Defendant’s guilty plea and Finding the Appellant guilty, in no manner exists even at this time.”

{¶11} “[7.] A jurisdictionally *valid* judgment entry of Sentence nowise exists; therefore, all the valid exercises of jurisdiction ends, with the instance of the Trial Court’s *final actions validly invoking jurisdiction by acceptance of not guilty pleas* at the Arraignment Hearing.”

Mr. Grenter’s Appeal is Barred by the Doctrine of Res Judicata

{¶12} Mr. Grenter brings an appeal from the trial court’s issuance of a *nunc pro tunc* judgment entry upon remand with specific instructions from this court. At the outset, we note that Mr. Grenter chose not to appeal his conviction or the denial of his earlier filed motion to withdraw his plea, nor has he sought a delayed appeal.

{¶13} Mr. Grenter’s assignments of error address a variety of issues, including the validity of his plea and sentence, and the effectiveness of his trial counsel. The arguments presented in his appellate brief, and the relief sought from this court, present subjects well beyond the substance of the *nunc pro tunc* order, treading into substantive matters reserved for direct appeals of a conviction.

{¶14} “[A] convicted defendant is precluded under the doctrine of res judicata from raising and litigating in any proceeding, except an appeal from that judgment, any defense or any claimed lack of due process that was raised or could have been raised by the defendant at the trial which resulted in that judgment of conviction or on appeal from that judgment.” *State v. Szefcyk*, 77 Ohio St.3d 93, 96 (1996).

{¶15} Mr. Greuter could have raised any issue regarding his conviction, the validity of his plea, the substance of the sentence and the sentencing entry, the effectiveness of his trial counsel, or the sentencing hearing itself, on direct appeal; that would have been the proper time and vehicle. See *State v. Mordas*, 11th Dist. No. 2009-P-0028, 2010-Ohio-196 (the trial court entertained the appellant’s assertion that it had failed to adhere to the requirements of R.C. 2929.18 in ordering restitution). Mr. Greuter, however, did not bring such an appeal. He may not now find his way into court through a side entrance and upon the back of an appeal from an order that he himself sought in his last appeal.

{¶16} All seven of Mr. Greuter’s assignments of error are without merit. The judgment of the Ashtabula County Court of Common Pleas is affirmed.

TIMOTHY P. CANNON, P.J.,

CYNTHIA WESTCOTT RICE, J.,

concur.