

[Cite as *State v. Sowers*, 2015-Ohio-2788.]

**IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
MIAMI COUNTY**

STATE OF OHIO	:	
	:	
Plaintiff-Appellee	:	Appellate Case No. 2014-CA-25
	:	
v.	:	Trial Court Case No. 13-CR-437A
	:	
JASON C. SOWERS, II	:	(Criminal Appeal from
	:	Common Pleas Court)
Defendant-Appellant	:	
	:	

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OPINION

Rendered on the 10th day of July, 2015.

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Attorney for Plaintiff-Appellee

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Attorney for Defendant-Appellant

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HALL, J.

{¶ 1} Jason C. Sowers II appeals from his conviction and sentence in Miami County Common Pleas Court on charges of murder, aggravated burglary, aggravated

robbery, and a firearm specification.

{¶ 2} Sowers advances four assignments of error. The first three challenge the constitutionality of mandatory-transfer provisions in R.C. 2152.10 and R.C. 2152.12 on the basis that they violate due process, equal protection, and the prohibition against cruel and unusual punishment. The fourth alleges ineffective assistance of counsel based on defense counsel's failure to raise the foregoing issues below.

{¶ 3} The record reflects that a complaint was filed against Sowers in juvenile court alleging that he was delinquent by reason of committing an offense that would be aggravated murder (with a firearm specification) if committed by an adult. The State moved to transfer the case to the general division of the common pleas court and to prosecute him as an adult. Following a hearing, the juvenile court found probable cause that Sowers had committed the offense and relinquished jurisdiction to the general division. Sowers subsequently was indicted on charges of aggravated murder (with a firearm specification), aggravated burglary, and aggravated robbery. Pursuant to a negotiated agreement, he pled to a reduced charge of murder (with a firearm specification) and the other charges in exchange for an agreed sentence. The trial court accepted the plea and imposed the agreed sentence. This appeal followed.

{¶ 4} As set forth above, Sowers' first three assignments of error challenge the constitutionality of mandatory-transfer provisions in R.C. 2152.10 and R.C. 2152.12, which govern the transfer of certain cases from juvenile court to adult court. He argues that the provisions at issue violate due process, equal protection, and the prohibition against cruel and unusual punishment. Sowers fails to acknowledge, however, that this court consistently has rejected the same constitutional arguments he raises here. See,

e.g., *State v. Aalim*, 2d Dist. Montgomery No. 26249, 2015-Ohio-892; *State v. Brookshire*, 2d Dist. Montgomery No. 25853, 2014-Ohio-1971; *State v. Anderson*, 2d Dist. Montgomery No. 25689, 2014-Ohio-4245; *State v. Agee*, 133 Ohio App.3d 441, 728 N.E.2d 442 (2d Dist.1999); *State v. Ramey*, 2d Dist. Montgomery No. 16442, 1998 WL 310741 (May 22, 1998). Sowers fails to cite any of this case law or make any attempt to distinguish it. On the authority of *Aalim*, *Brookshire*, *Anderson*, *Agee*, *Ramey*, and similar cases from other Ohio appellate districts,¹ we overrule the first three assignments of error.

{¶ 5} In his fourth assignment of error, Sowers claims ineffective assistance of counsel based on his attorney's failure to challenge the constitutionality of the mandatory-transfer provisions below. Because those provisions are constitutional, however, his attorney's failure to challenge them did not constitute ineffective assistance. *Brookshire* at ¶ 37. The fourth assignment of error is overruled.

{¶ 6} The trial court's judgment is affirmed.

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DONOVAN, J., and WELBAUM J., concur.

Copies mailed to:

Paul M. Watkins
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Hon. Christopher Gee

¹ See, e.g., *State v. J.T.S.*, 10th Dist. Franklin No. 14AP-516, 2015-Ohio-1103; *State v. Lane*, 11th Dist. Geauga No. 2013-G-3144, 2014-Ohio-2010; *State v. Mays*, 8th Dist. Cuyahoga No. 100265, 2014-Ohio-3815; *State v. Simon*, 12th Dist. Butler No. CA2014-06-139, 2015-Ohio-970.

