

**IN THE COURT OF APPEALS OF OHIO
THIRD APPELLATE DISTRICT
LOGAN COUNTY**

STATE OF OHIO,

CASE NO. 8-18-24

PLAINTIFF-APPELLEE,

v.

RAYMOND R. WASHINGTON,

OPINION

DEFENDANT-APPELLANT.

**Appeal from Logan County Common Pleas Court
Trial Court No. CR 17 04 0114**

Judgment Affirmed

Date of Decision: November 13, 2018

APPEARANCES:

Eric J. Allen for Appellant

Sarah J. Warren for Appellee

WILLAMOWSKI, P.J.

{¶1} Defendant-appellant Raymond R. Washington (“Washington”) brings this appeal from the judgment of the Court of Common Pleas of Logan County reimposing the aggregate sentence of 18 months for violation of judicial release. Washington claims that the trial court’s sentence was not supported by the record. For the reasons set forth below, the judgment is affirmed.

{¶2} On April 11, 2017, the Logan County Grand Jury indicted Washington on two counts of Trafficking in Cocaine in violation of R.C. 2925.03(A)(1), felonies of the fifth degree. Doc. 2. On June 23, 2017, Washington entered a petition to change his pleas to guilty. Doc. 37. In exchange for the guilty pleas, the State agreed to recommend community control with suspended local jail time. *Id.* The trial court accepted the change of plea and ordered a presentence investigation report before sentencing Washington. A sentencing hearing was held on September 1, 2017. Doc. 56. The trial court sentenced Washington to nine months of prison on each count and ordered that the sentences be served consecutively. *Id.* Washington filed a notice of appeal from this judgment on September 19, 2017. Doc. 69. The appeal was assigned case number 8-17-30. On May 15, 2018, this Court dismissed the appeal for want of prosecution due to Washington’s failure to file a brief. Doc. 130.

{¶3} On January 10, 2018, Washington filed a motion for judicial release. Doc. 89. A hearing was held on the motion on February 15, 2018. Doc. 100. The trial court granted the motion, suspended the remainder of the sentence, and imposed community control. *Id.*

On April 6, 2018, the State filed a show cause motion alleging that Washington had violated the terms of his judicial release. Doc. 106. A hearing on the alleged violations occurred on May 7, 2018. Doc. 124. The trial court found that Washington had violated the terms of his release and reimposed the original aggregate sentence of 18 months in prison with credit for 142 days of time served. *Id.* Washington filed a timely notice of appeal from this judgment. On appeal, Washington raises the following assignments of error.

First Assignment of Error

The record in this matter does not support more than the joint sentencing recommendation presented to the court.

Second Assignment of Error

The record in this matter does not support the imposition of consecutive sentences pursuant to [R.C. 2929.14].

{¶4} This court notes that both assignments of error address the imposition of the original sentence, which occurred in September of 2017. Washington filed an appeal from those sentences, but failed to prosecute it by failing to file a brief. This Court then dismissed the appeal in May of 2018. That appeal was when the challenge to the imposition of the sentence should have occurred. Since Washington could have and should have raised these issues in that appeal, he is barred from raising them at this time by the doctrine of res judicata. The judgment from which this appeal stems is merely a reimposition of the original sentence due to a violation of the terms of Washington's judicial release. If appellant disagreed with the trial court's original judgment that imposed the prison term,

Case No. 8-18-24

he should have addressed it on his direct appeal. *State v. Baker*, 152 Ohio App.3d 138, 2002-Ohio-7295, 787 N.E.2d 17 (7th Dist.). Washington does not claim and this court does not find that the trial court erred by reimposing the original sentence due to a violation of judicial release. Thus, the assignments of error are overruled.

{¶5} Having found no error prejudicial to the appellant in the judgment of the Court of Common Pleas of Logan County, the judgment is affirmed.

Judgment Affirmed

ZIMMERMAN and PRESTON, J.J., concur.

/hls