

COURT OF APPEALS
TUSCARAWAS COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO	:	JUDGES:
	:	William B. Hoffman, P.J.
	:	Sheila G. Farmer, J.
Plaintiff-Appellee	:	Julie A. Edwards, J.
	:	
-VS-	:	Case No. 11AP030012
	:	
	:	
LARRY BILES	:	<u>O P I N I O N</u>
	:	
Defendant-Appellant	:	

CHARACTER OF PROCEEDING:	Criminal Appeal from Tuscarawas County Court of Common Pleas Case No. 2010CR01007
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JUDGMENT:	Affirmed
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DATE OF JUDGMENT ENTRY:	December 12, 2011
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APPEARANCES:

For Plaintiff-Appellee

For Defendant-Appellant

MICHAEL ERNEST
125 EAST HIGH AVENUE
NEW PHILADELPHIA, OHIO 44663

DAN GUINN
118 WEST HIGH AVENUE
NEW PHILADELPHIA, OHIO 44663

Edwards, J.

{¶1} Appellant, Larry Biles, appeals a judgment of the Tuscarawas County Common Pleas Court convicting him of two counts of trafficking in cocaine (R.C. 2925.03(A)(1)). Appellee is the State of Ohio.

STATEMENT OF FACTS AND CASE

{¶2} On January 13, 2010, appellant was indicted by the Tuscarawas County Grand Jury with two counts of trafficking in cocaine. The case proceeded to jury trial in the Tuscarawas County Common Pleas Court. Appellant was convicted of both counts. The trial court sentenced him to three years of community control. He assigns a single error on appeal:

{¶3} “APPELLANT’S CONVICTION UNDER OHIO REVISED CODE 2925.03(A)(1) WAS AGAINST THE MANIFEST WEIGHT AND SUFFICIENCY OF THE EVIDENCE.”

{¶4} Appellant's assignment of error relies for its validity on a transcript of the proceedings. However, no transcript of the proceedings has been filed in the instant case.

{¶5} On March 15, 2011, appellant filed a request for a transcript of the proceedings. The trial court granted an extension of 40 days within which to file the transcript on April 25, 2011. On June 6, 2011, appellant filed a motion for extension of time in which to file the transcript with this Court. This Court overruled the motion on June 10, 2011, for failure to comply with Loc. R. 8(B). The clerk of courts notified appellant that the record was transmitted on June 10, 2011, with no transcripts filed.

{¶6} Appellant filed a motion to supplement the record with the trial transcript on July 20, 2011, noting that the transcript was still being prepared by the court reporter. This Court overruled the motion on July 28, 2011, again for failure to comply with Loc. R. 8(B).

{¶7} The record before us therefore does not include a transcript of the proceedings. Absent a transcript, we must presume regularity in the proceedings in the trial court. *Knapp v. Edwards Laboratory* (1980), 61 Ohio St.2d 197, 400 N.E.2d 384.

{¶8} Appellant's assignment of error is overruled.

{¶9} The judgment of the Tuscarawas County Common Pleas Court is affirmed.

By: Edwards, J.

Hoffman, P.J. and

Farmer, J. concur

JUDGES

JAE/1118

IN THE COURT OF APPEALS FOR TUSCARAWAS COUNTY, OHIO

FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-VS-

LARRY BILES

Defendant-Appellant

JUDGMENT ENTRY

CASE NO. 11AP030012

For the reasons stated in our accompanying Memorandum-Opinion on file, the judgment of the Tuscarawas County Court of Common Pleas is affirmed. Costs assessed to appellant.

JUDGES