

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff - Appellee

-vs-

MICHAEL ERNEST WILLIAMS

Defendant - Appellant

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JUDGES:

Hon. W. Scott Gwin, P.J.

Hon. John W. Wise, J.

Hon. Craig R. Baldwin, J.

Case No. 2015CA00045

O P I N I O N

CHARACTER OF PROCEEDING:

Appeal from the Stark County Court
of Common Pleas, Case No.
2012CR1151

JUDGMENT:

Affirmed

DATE OF JUDGMENT:

July 13, 2015

APPEARANCES:

For Plaintiff-Appellee

JOHN D. FERRERO
Prosecuting Attorney

By: KATHLEEN O. TATARSKY
Assistant Prosecuting Attorney
110 Central Plaza South, Suite 510
Canton, OH 44702

For Defendant-Appellant

MICHAEL WILLIAMS, pro se
Inmate No. 653-607
Lake Erie Correctional Institution
501 Thompson Road
P.O. Box 8000
Conneaut, OH 44030

Baldwin, J.

{¶1} Appellant Michael Ernest Williams appeals a judgment of the Stark County Common Pleas Court overruling his motion to waive court costs. Appellee is the State of Ohio.

STATEMENT OF FACTS AND CASE

{¶2} On September 17, 2012, appellant was indicted for possession of cocaine in violation of R.C. 2925.11. He entered a plea of guilty and was sentenced to community control. Among the conditions of his probation was the payment of court costs. Judgment Entry of Sentence, December 7, 2012. Appellant did not appeal this entry.

{¶3} Appellant's probation was revoked on May 9, 2014, based on new charges in Case No. 2013CR1900 of driving while intoxicated and possession of heroin. His probation was revoked and he was ordered to serve two years incarceration, concurrent with the sentence on the new charges. He was again ordered to pay costs. He did not appeal this entry.

{¶4} On August 11, 2014, appellant filed a motion to vacate the payment of court costs. The motion was denied by the court on August 14, 2014, and appellant did not file an appeal.

{¶5} Appellant filed a motion to vacate court costs on March 5, 2015. The court denied the motion on March 6, 2015. Appellant assigns a single error on appeal:

{¶6} "TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO MOVE THE COURT FOR A WAIVER OF, AND FOR NOT, OBJECTING TO THE IMPOSITION OF COURT COSTS AGAINST THE INDIGENT APPELLANT."

{¶7} Appellant argues that his trial counsel was ineffective for failing to move to waive court costs at his sentencing hearing. Appellant failed to appeal both the December 7, 2012, judgment which ordered him to pay court costs, and the May 9, 2014, entry which ordered him to pay court costs. Appellant's argument is barred by res judicata, as he failed to appeal the original orders imposing costs. See *State v. Ketterer*, 140 Ohio St. 3d 400, 18 N.E.3d 1199, 2014-Ohio-3973, ¶¶25-27.

{¶8} Appellant's assignment of error is overruled. The judgment of the Stark County Common Pleas Court is affirmed. Costs are assessed to appellant.

By: Baldwin, J.

Gwin, P.J. and

Wise, J. concur.