

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO	:	JUDGES:
	:	Hon. W. Scott Gwin, P.J.
Plaintiff - Appellee	:	Hon. John W. Wise, J.
	:	Hon. Craig R. Baldwin, J.
-vs-	:	
	:	
MICHAEL ERNEST WILLIAMS	:	Case No. 2015CA00061
	:	
Defendant - Appellant	:	<u>OPINION</u>

CHARACTER OF PROCEEDING:	Appeal from the Stark County Court of Common Pleas, Case No. 2013CR1900
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JUDGMENT:	Affirmed
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DATE OF JUDGMENT:	July 13, 2015
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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
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Baldwin, J.

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

STATEMENT OF FACTS AND CASE

{¶2} On January 6, 2014, appellant was indicted by the Stark County Grand Jury with possession of heroin (R.C. 2925.11) and operating a motor vehicle under the influence of alcohol or a drug of abuse (R.C. 4511.19). He pled guilty and was sentenced to nine months in prison for possession of heroin on May 6, 2014. He was ordered to pay costs. Appellant did not appeal this entry. He sought to file a delayed appeal, which was denied by this Court.

{¶3} Appellant filed a motion to vacate court costs on March 5, 2015. The court denied the motion on March 17, 2015. Appellant assigns one error:

{¶4} "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."

{¶5} Appellant argues that his trial counsel was ineffective for failing to move to waive court costs at his sentencing hearing. Appellant failed to appeal the May 6, 2014, entry which ordered him to pay court costs. Appellant's argument is barred by res judicata, as he failed to appeal the entry which imposed costs. See *State v. Ketterer*, 140 Ohio St. 3d 400, 18 N.E.3d 1199, 2014-Ohio-3973, ¶25-27.

{¶6} 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.