

IN THE COURT OF APPEALS OF OHIO  
SIXTH APPELLATE DISTRICT  
LUCAS COUNTY

State of Ohio

Court of Appeals No. L-07-1213

Appellee

Trial Court No. CR-2004-3699

v.

Eric Babos

**DECISION AND JUDGMENT ENTRY**

Appellant

Decided: February 15, 2008

\* \* \* \* \*

Julia R. Bates, Lucas County Prosecuting Attorney, and  
Andrew J. Lastra, Assistant Prosecuting Attorney, for appellee.

Eric Babos, pro se.

\* \* \* \* \*

OSOWIK, J.

{¶ 1} This is an appeal from a judgment of the Lucas County Court of Common Pleas that denied appellant's motion for relief from judgment. For the following reasons, the judgment of the trial court is affirmed.

{¶ 2} On August 5, 2005, a jury found appellant guilty of one count of murder in violation of R.C. 2903.02(B). Appellant was sentenced to 18 years to life. Appellant

filed a motion for a new trial which the trial court denied. In a judgment entry issued May 18, 2007, this court affirmed the decision of the trial court. *State v. Babos*, 6th Dist. No. L-05-1394, 2007-Ohio-2393. Appellant then applied to this court for reopening of his direct appeal pursuant to App.R. 26(B), setting forth 11 assignments of error. By judgment entry filed August 30, 2007, we denied appellant's application, finding that appellant had not shown he was denied effective assistance of appellate counsel. Appellant now submits 13 assignments of error alleging arguments that have been raised in his prior appeals to this court. Appellant argues that there is insufficient credible evidence to support his conviction for murder, that the conviction is against the manifest weight of the evidence, and that "the facts and evidence at trial show that it is more likely than not that [he] is innocent of the charged murder." Appellant also raises several specific arguments as to evidence admitted at trial. He further argues that he was denied effective assistance of both trial and appellate counsel.

{¶ 3} This court has thoroughly reviewed appellant's prior appeals to this court and the arguments raised therein. Upon consideration thereof, we find that the arguments raised in Assignments of Error Nos. 6, 8 and 10 through 13 have been previously considered by this court. Further, the arguments set forth in Assignments of Error Nos. 1 through 5, 7 and 9, all of which are based on evidence in the record, could have and should have been raised on direct appeal. Accordingly, we find that appellant's arguments are barred by res judicata. See *State v. Perry* (1967), 10 Ohio St.2d 175, paragraphs eight and nine of the syllabus. The trial court did not err by denying

appellant's motion for relief from judgment and appellant's 13 assignments of error are not well-taken.

{¶ 4} On consideration whereof, the judgment of the Lucas County Court of Common Pleas is affirmed. Appellant is ordered to pay the costs of this appeal pursuant to App.R. 24. Judgment for the clerk's expense incurred in preparation of the record, fees allowed by law, and the fee for filing the appeal is awarded to Lucas County.

JUDGMENT AFFIRMED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4.

Peter M. Handwork, J.

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JUDGE

Mark L. Pietrykowski, P.J.

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JUDGE

Thomas J. Osowik, J.  
CONCUR.

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JUDGE

<p>This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at: <a href="http://www.sconet.state.oh.us/rod/newpdf/?source=6">http://www.sconet.state.oh.us/rod/newpdf/?source=6</a>.</p>
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