

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

State of Ohio

Court of Appeals No. L-09-1151

Appellee

Trial Court No. CR00200601328

v.

Andre Delawrence Rice

DECISION AND JUDGMENT

Appellant

Decided: June 24, 2009

* * * * *

Julia R. Bates, Lucas County Prosecuting Attorney, and David F.
Cooper, Assistant Prosecuting Attorney, for appellee.

Andre Delawrence Rice, pro se.

* * * * *

PER CURIAM.

{¶ 1} This case is before the court sua sponte. It has come to the court's attention that appellant, Andre Delawrence Rice, has appealed from a void judgment. Rice entered a plea of guilty and was convicted of involuntary manslaughter and aggravated robbery in 2006. He appealed and this court affirmed his conviction. Subsequently, Rice filed

many motions to withdraw his guilty plea in the trial court pursuant to Crim.R. 32.1 which were all denied. This instant appeal is taken from a May 4, 2009 order of the trial court denying one of his many motions to withdraw his guilty plea.

{¶ 2} In *State ex rel. Special Prosecutors v. Judges, Court of Common Pleas* (1978), 55 Ohio St.2d 94, 97, the court states:

{¶ 3} "Crim.R. 32.1 did not vest jurisdiction in the trial court to maintain and determine a motion to withdraw the guilty plea subsequent to an appeal and an affirmance by the appellate court."

{¶ 4} Rice's conviction was appealed and affirmed in 2006. Therefore, the trial court did not have jurisdiction to rule on the motion to withdraw Rice's guilty plea and the May 4, 2009 ruling on the motion is void. An appeal cannot be taken from a void judgment. *Short v. Short*, 6th Dist. No. F-02-005, 2002-Ohio-2290.

{¶ 5} Accordingly, this appeal is ordered dismissed at appellant's costs. All pending motions are moot and denied.

APPEAL DISMISSED.

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

State v. Rice
C.A. No. L-09-1151

Peter M. Handwork, J.

JUDGE

Mark L. Pietrykowski, J.

JUDGE

Arlene Singer, J.

CONCUR.

JUDGE

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:
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.