

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

State of Ohio

Court of Appeals No. WD-10-062

Appellee

Trial Court No. 2007CR0212

v.

Jose Rodriguez

DECISION AND JUDGMENT

Appellant

Decided: March 25, 2011

* * * * *

Jose Rodriguez, pro se.

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SINGER, J.

{¶ 1} This is an appeal from a judgment of the Wood County Court of Common Pleas which denied appellant, Jose Rodriguez's, "motion for request for public records pursuant to R.C. 149.43." For the reasons set forth below, this court affirms the judgment of the trial court.

{¶ 2} On January 29, 2008, a jury convicted appellant of trafficking in marijuana, a violation of R.C. 2925.03(A)(2) and (C)(3)(f). He was sentenced to eight years in prison. This court affirmed his conviction on August 21, 2009. *State v. Rodriguez*, 6th Dist. No. WD-08-013, 2009-Ohio-4280.

{¶ 3} On July 21, 2010, appellant filed a motion requesting public records. Specifically, he sought recordings and videos related to the investigation which led to his arrest for drug trafficking. He sought a copy of his car registration which was introduced at trial to show he owned the car where the marijuana was found. Finally, he asked for a copy of law enforcement's written report detailing the investigation of appellant.

{¶ 4} The trial court denied appellant's motion, first on the basis of R.C. 149.43(B)(1) which provides that a request for public records must be made to the office or person that is responsible for said public records. The court stated: "[B]ecause the court is not in possession of or responsible for the items requested, it is not in a position to grant or deny [appellant's] public records request." Second, the court denied appellant's motion on the basis that appellant has no justiciable claim as defined in R.C. 149.43(B)(8).

{¶ 5} Appellant now appeals setting forth the following assignment of error:

{¶ 6} "The trial court erred and/or abused its discretion when it failed to make a finding that the information sought in the public record by the defendant either is or not necessary to support what appears to be a justifiable claim of the appellant."

{¶ 7} R.C. 149.43(B)(8) provides:

{¶ 8} "A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person."

{¶ 9} Establishing a justiciable claim ordinarily involves identifying a "pending proceeding with respect to which the requested documents would be material." *State v. Wilson*, 2d Dist. No. 23247, 2009-Ohio-7035, *State v. Gibson*, 2d Dist. No. 06CA37, 2007-Ohio-7161.

{¶ 10} The trial court found that Rodriguez did not demonstrate that the records sought were needed to support a justiciable claim. We agree. Appellant makes unsubstantiated claims that the state tampered with the trial evidence but he has not identified any pending proceeding to which the items he seeks would be material. As noted by the trial judge, the evidence against appellant in his case was overwhelming. A jury found him guilty beyond a reasonable doubt and he has had a direct appeal. Based

on the foregoing, we find that the trial court did not err in finding that appellant did not satisfy the requirements of R.C. 149.43(B)(8).

{¶ 11} On consideration whereof, the judgment of the Wood County Court of Common Pleas is affirmed. Costs of this appeal are assessed to appellant pursuant to App.R. 24.

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.

JUDGE

Arlene Singer, J.

JUDGE

Thomas J. Osowik, P.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:
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