

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

In the Matter of: W.E.

Court of Appeals No. L-11-1076

Trial Court No. 11212295 01

DECISION AND JUDGMENT

Decided: September 12, 2011

* * * * *

James J. Popil, for appellant.

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PER CURIAM.

{¶ 1} This matter is before the court on a "Motion to Supplement [the] Record" filed by appellant, W.E., in which appellant asks this court to supplement the appellate record in this case with pleadings from Juvenile Court case Nos. 08184822, 10209481 and 11211375. In support, appellant states that these three additional cases "were dismissed at the time of the subject adjudication hearing on February 22, 2011 and these

cases are referenced in Appellant's brief in the Statement of the Case." Appellant further states that the additional case materials "will assist [this] Court in understanding the dynamics of this case which led to the 'stipulated agreement' between the State and the Appellant." Appellee has not filed a response.

{¶ 2} App.R. 9(B) states, in pertinent part, that:

{¶ 3} "At the time of filing the notice of appeal the appellant, in writing, shall order from the reporter a complete transcript or a transcript of the parts of the proceedings not already on file as the appellant considers necessary for inclusion in the record and file a copy of the order with the clerk. * * *"

{¶ 4} Pursuant to App.R. 9(E), when anything material is inadvertently omitted from the record on appeal "the parties, by stipulation, or the trial court, either before or after the record is transmitted to the court of appeals, or the court of appeals, on proper suggestion or of its own initiative, may direct that the omission * * * be corrected, and if necessary that a supplemental record be certified and transmitted. * * *"

{¶ 5} "[I]t is well-settled that parties to an appeal cannot supplement the appellate record with something that was not before the trial court even if agreed upon by both parties." *Odak v. Odak* (1999), 6th Dist. No. H-98-025, citing *State v. Robinson* (1978), 53 Ohio St.2d 211. See, also, *State v. Bellamy*, 181 Ohio App.3d 210, 2009-Ohio-888; *State v. Ishmail* (1978), 54 Ohio St.2d 402. Similarly, "[a] court cannot take judicial notice of court proceedings in another case." *Woodman v. Tubbs Jones* (1995), 103 Ohio App.3d 577, 580, citing *Diversified Mtge. Investors, Inc. v. Athens Cty. Bd. of Revision*

(1982), 7 Ohio App.3d 157; *State v. Velez* (1991), 72 Ohio App.3d 836. Accordingly, App.R. 9 may only be used "to correct or modify what occurred on the trial court record." *Woodman v. Tubbs Jones*, supra.

{¶ 6} On consideration, appellant's motion to add material to the appellate record from three juvenile court proceedings that were not before the trial court in this case is not well-taken and is denied. It is so ordered.

MOTION DENIED

Peter M. Handwork, J.

JUDGE

Thomas J. Osowik, P.J.

JUDGE

Stephen A. Yarbrough, J.
CONCUR.

JUDGE

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