

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

State of Ohio

Court of Appeals No. L-10-1263

Appellee

Trial Court No. CR0200402741

v.

Tyrice Hill

DECISION AND JUDGMENT

Appellant

Decided: March 16, 2012

* * * * *

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

Chad D. Huber, for appellant.

* * * * *

SINGER, J.

{¶ 1} Appellant, Tyrice Hill, appeals from a decision of the Lucas County Court of Common Pleas denying his motion to withdraw his guilty pleas and his motion for resentencing. We affirm.

{¶ 2} The facts giving rise to this appeal are as follows. On January 10, 2005, appellant entered guilty pleas to three counts of aggravated robbery, violations of R.C. 2911.01(A)(1) and felonies of the first degree. He was sentenced to serve 28 years in prison. This court affirmed his convictions on February 24, 2006. *State v. Hill*, 6th Dist. No. L-05-1080, 2006-Ohio-859. Thereafter, he filed four motions to withdraw his guilty pleas, all of which were denied by the trial court.

{¶ 3} On August 28, 2009, he filed a notice of appeal challenging the trial court's fourth denial of his motion to withdraw his guilty pleas. This court dismissed his appeal citing *State ex rel. Special Prosecutors v. Judges, Court of Common Pleas*, 55 Ohio St.2d 94, 378 N.E.2d 162 (1978), which states: "Crim.R. 32.1 does 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." This court then held: "[I]t follows that the trial court's ruling on Hill's motion to withdraw his guilty plea rendered after his conviction was affirmed on appeal is void. No appeal can be taken from a void judgment." *State v. Hill*, 6th Dist. No. L-09-1226, 2009-Ohio-5187, at ¶ 5.

{¶ 4} On July 30, 2010, appellant filed a fifth motion to withdraw his guilty pleas along with a motion to dismiss the original indictment and a motion for resentencing. All three motions were denied by the trial court on August 18, 2010. Appellant now appeals setting forth the following assignments of error:

A. The trial court erred in denying defendant-appellant's motion(s) to withdraw his guilty pleas.

B. The trial court erred in sentencing appellant to separate and consecutive seven (7) year terms for three counts of aggravated robbery in violation of the eighth amendment of the United States Constitution and section nine, article I of the Ohio Constitution.

{¶ 5} In his first assignment of error, appellant contends that the court erred in denying his fifth motion to withdraw his guilty plea. On the authority of *State v. Hill, id.*, appellant's first assignment of error is found not well-taken.

{¶ 6} In his second assignment of error, appellant contends that the court erred in ordering appellant to serve three consecutive seven-year prison terms for each of the three counts of aggravated robbery.

{¶ 7} In *State v. Foster*, 109 Ohio St.3d 1, 2006–Ohio–856, the Supreme Court of Ohio relevantly held that “[t]rial courts [now] have full discretion to impose a prison sentence within the statutory range and are no longer required to make findings or give their reasons for imposing maximum, consecutive, or more than the minimum sentences.”

{¶ 8} Appellant was convicted of three first degree felonies. The statutory range for first degree felonies is 3 to 11 years. R.C. 2929.14(A)(1). As appellant's sentences for aggravated robbery are well within the statutory range, we find no abuse of discretion. Appellant's second assignment of error is found not well-taken.

{¶ 9} 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 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, P.J.

JUDGE

Stephen A. Yarbrough, 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>.