

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

State of Ohio

Court of Appeals No. L-12-1053

Appellee

Trial Court No. CR0200701661

v.

Christopher McGlown

DECISION AND JUDGMENT

Appellant

Decided: April 12, 2013

* * * * *

Julia R. Bates, Lucas County Prosecuting Attorney, and
Brenda J. Majdalani, Assistant Prosecuting Attorney, for appellee.

Dan M. Weiss, for appellant.

* * * * *

OSOWIK, J.

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

{¶ 2} On October 26, 2007, appellant was found guilty of one count of forgery in violation of R.C. 2913.31(A)(3) and (C)(1)(a) and one count of tampering with records in violation of R.C. 2913.42(A)(1) and (B)(4). Appellant was sentenced to ten months on the forgery conviction and four years on the tampering with records conviction. The two sentences were ordered to be served consecutively to each other as well as consecutive to a sentence for a conviction in federal court that had not yet been imposed. Appellant subsequently appealed his sentence; this court affirmed his sentence on April 24, 2009. *State v. McGlown*, 6th Dist. No. L-07-1384, 2009-Ohio-1894.

{¶ 3} Appellant also filed various motions in the trial court concerning his conviction and sentence, all of which were denied. On August 18, 2011, appellant filed a motion seeking to correct an “illegal sentence,” arguing that the trial court acted contrary to law by ordering that his sentence be served consecutively to any sentence imposed by the federal court. The trial court found that appellant’s argument was barred by res judicata as it could have been raised in his initial appeal and denied his motion. Appellant appeals that judgment.

{¶ 4} Appellant sets forth the following assignment of error:

The trial court erred when it denied appellant’s motion to correct sentence requesting a resentencing as a result of the court’s imposition of its sentence consecutively to a federal sentence that had not been imposed.

{¶ 5} Appellant does not dispute that at the time he was sentenced in this case he had a pending case in the Ohio Northern District Federal Court on separate charges.

Appellant asserts that the trial court herein interfered with the discretion of the federal court to determine an appropriate sentence.

{¶ 6} We cannot consider the merits of appellant's argument, however, because appellant is barred from asserting this claim under the doctrine of res judicata. This issue could have been raised on direct appeal and, therefore, is barred from being raised in a subsequent proceeding. *State v. Perry*, 10 Ohio St.2d 175, 226 N.E.2d 104 (1967), paragraphs seven and nine of the syllabus; *State v. Hintz*, 6th Dist. No. S-10-051, 2011-Ohio-5944, ¶ 12. Accordingly, appellant's sole assignment of error is not well-taken.

{¶ 7} On consideration whereof, the judgment of the Lucas 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.

Arlene Singer, P.J.

JUDGE

Thomas J. Osowik, 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>.