

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

State of Ohio

Court of Appeals No. L-13-1004

Appellee

Trial Court No. CR0200902378

v.

Gregory Kamer

DECISION AND JUDGMENT

Appellant

Decided: August 16, 2013

* * * * *

Julia R. Bates, Lucas County Prosecuting Attorney, and
Evy M. Jarrett, Assistant Prosecuting Attorney, for appellee.

Gregory Kamer, pro se.

* * * * *

OSOWIK, J.

{¶ 1} This is an appeal from a judgment of the Lucas County Court of Common Pleas, which denied appellant's motion for a second copy of the transcript of the trial court proceedings. A copy had been previously provided at the state's expense on direct appeal. For the reasons set forth below, this court affirms the judgment of the trial court.

{¶ 2} Appellant, Gregory Kamer, sets forth the following four assignments of error:

No. 1: The trial court is wrong in denying Kamer a free copy of the transcript because Ohio provides transcripts to prisoners who can afford them and is thereby constitutionally required to provide a means of affording adequate and effective appellate review to indigent prisoners, and Ohio chose to establish an appellate review procedure in criminal cases, and therefore it may not prevent indigent prisoners from effectively defending their case in any phase of that procedure because of their poverty.

No. 2: The trial court is wrong in denying Kamer a free copy of the transcript when the trial court is aware that his appellate attorney refused to provide him with a copy of the transcript.

No. 3: The trial court is wrong in denying Kamer a free transcript based on its implied conclusion that, because Kamer was convicted and the Court of Appeals affirmed the conviction, there was no reversible error in the trial court.

No. 4: The trial court is wrong in denying Kamer a free copy of the transcript because Article 1, Section 16 of the Ohio Constitution and State and Federal case law ensure a defendant the availability of an unabridged transcript of the proceedings.

{¶ 3} The following undisputed facts are relevant to this appeal. On July 15, 2009, appellant was indicted on two counts of rape of a child less than ten years of age, in violation of R.C. 2907.02, and two counts of gross sexual imposition involving a child less than ten years of age, in violation of R.C. 2907.05. The victim in the matter was the four-year-old daughter of a friend of appellant.

{¶ 4} Subsequent to the victim and her family moving in with appellant and his family at their home in North Toledo, appellant encouraged the victim to engage in a “grown-up game” with appellant. The victim testified at trial with specificity regarding appellant “sticking his pee pee” inside the victim on multiple occasions. In addition, the victim described how appellant would also engage in digital sexual conduct with the victim. These events came to light after the victim’s father discovered the victim and her two-year-old male cousin undressed and under the covers in bed together. Upon questioning by her father regarding what the children had been doing, the victim replied that they were playing a grown-up game that she had previously learned from “Uncle Greg.”

{¶ 5} Appellant was convicted on all counts following a jury trial. On September 23, 2010, appellant filed a direct appeal. This court subsequently affirmed appellant’s conviction and sentence. *State v. Kamer*, 6th Dist. Lucas No. L-10-1103, 2012-Ohio-722. The Supreme Court of Ohio denied appellant’s motion for leave to file a delayed appeal. On December 6, 2012, appellant filed a motion with the trial court seeking an additional copy of the transcript in this matter. Based upon a copy of the

transcript being furnished at the state's expense on direct appeal, the motion was denied. This appeal ensued.

{¶ 6} Each of appellant's four assignments of error are rooted in the same underlying premise that the trial court erred in denying appellant an additional copy of the transcript at the state's expense. Accordingly, we will address the assignments simultaneously.

{¶ 7} It is a well-settled principle of law in Ohio that a defendant is only entitled to one copy of the transcript of proceedings at the state's expense. It is further established that a copy of the transcript of proceedings being furnished at the state's expense on direct appeal constitutes full compliance by the state with its duty to furnish a copy of the transcript.

{¶ 8} This court's recent ruling in *State v. Wyburn*, 6th Dist. Lucas No. L-10-1292, 2011-Ohio-142, ¶ 5, succinctly sets forth the law governing the disputed motion underlying this appeal. As we held in *Wyburn*, "The duty to provide a transcript at State expense extends only to providing one transcript for the entire judicial system. It does not extend to sending the transcript to the indigent person in prison." We consistently held in *State v. Houston*, 6th Dist. Williams No. WM-11-010, 2012-Ohio-3407, "The copy filed during the appeal at the state's expense constitutes the one copy to which the defendant is entitled." *Houston* at ¶ 5.

{¶ 9} We have reviewed and considered the record of evidence in this matter. The record reflects that the one copy of the transcript of proceedings at the state's expense to

which appellant was entitled was provided on direct appeal. As such, the trial court did not err in denying appellant's motion to be furnished an additional copy of the transcript of proceedings at the state's expense. Wherefore, we find appellant's assignments of error not well-taken. The judgment of the Lucas County Court of Common Pleas is hereby 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.

Mark L. Pietrykowski, J.

JUDGE

Arlene Singer, P.J.

JUDGE

Thomas J. Osowik, J.
CONCUR.

JUDGE

<p>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.</p>
