[Cite as *State v. McGlown*, 2014-Ohio-1139.]

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

State of Ohio — Court of Appeals No. L-13-1033

Appellee — Trial Court No. CR0200701661

v.

Christopher Alexander McGlown — **DECISION AND JUDGMENT**

Appellant — Decided: March 21, 2014

* * * * *

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

Christopher A. McGlown, pro se.

* * * * *

PIETRYKOWSKI, J.

{¶ 1} This is an appeal from a judgment of the Lucas County Court of Common Pleas which denied the motion of pro se defendant-appellant, Christopher A. McGlown, to modify a sentencing judgment entry. For the following reasons, we affirm.

{¶ 2} The facts of this case were set forth in detail in our previous decision of *State v. McGlown*, 6th Dist. Lucas No. L-07-1384, 2009-Ohio-1894 (*McGlown I*). Accordingly, we will only recite herein the facts relevant to this appeal.

{¶ 3} 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), a fifth degree felony, and one count of tampering with records in violation of R.C. 2913.42(A)(1) and (B)(4), a third degree felony. Appellant was sentenced to ten months on the forgery conviction and four years on the tampering conviction. The two sentences were ordered to be served consecutively to each other and consecutively to a sentence for a conviction in federal court that had not yet been imposed. In his appeal of that judgment to this court, appellant argued that the lower court erred in refusing to allow him to represent himself at trial. Appellant also asserted that his conviction was against the manifest weight of the evidence. In *McGlown I*, we found no merit in appellant's assigned errors and affirmed his conviction and sentence.

{¶ 4} Thereafter, appellant filed in the trial court a motion to correct an "illegal sentence." Appellant made numerous assertions, including that the trial court acted contrary to law by ordering that his sentence be served consecutively to any sentence imposed by the federal court. In an opinion and judgment entry of January 25, 2012, the lower court denied appellant's motion. Appellant appealed that judgment to this court. In a decision dated April 12, 2013, we affirmed the trial court's judgment. *State v. McGlown*, 6th Dist. Lucas No. L-12-1053, 2013-Ohio-1479 (*McGlown II*). Specifically,

we held that because appellant could have challenged the consecutive nature of his sentence in his direct appeal, he was barred by the doctrine of res judicata from raising it in this subsequent proceeding.

{¶ 5} In the meantime, on February 21, 2012, appellant filed yet another challenge to his sentence when he filed a motion to resentence/revise the judgment entry of sentence in the trial court. Among the arguments made by appellant was his assertion that his sentence was void because the judgment entry of sentence did not reflect the sentence imposed at the sentencing hearing. The court denied the motion, in part on the ground of res judicata. Appellant appealed that judgment to this court, but in an entry dated June 4, 2012, we dismissed the appeal for appellant's failure to file an appellate brief or a motion for extension of time. *See State v. McGlown,* 6th Dist. Lucas No. L-12-1082 (*McGlown III*).

{¶ 6} On February 4, 2013, appellant filed a letter with the trial court seeking to correct what he termed a "clerical error" in his sentence. Appellant asserted that at the sentencing hearing, the court stated that his sentence would run prior to and consecutively to any sentence imposed in the federal case, but that the sentencing entry omits the words "run prior." The court construed appellant's motion as a motion to modify the sentencing judgment entry and denied it without comment. Appellant now challenges that judgment through the following assignment of error:

The trial court erred when it denied appellant's motion to correct the record requesting a corrected journal entry as a result of the court's failure to journalize the actual sentence it pronounced at the sentencing hearing.

{¶ 7} In *State v. Perry*, 10 Ohio St.2d 175, 226 N.E.2d 104 (1967), the Supreme Court of Ohio addressed the nature and scope of the doctrine of res judicata:

> Under the doctrine of res judicata, a final judgment of conviction bars a convicted defendant who was represented by counsel from raising and litigating in any proceeding except an appeal from that judgment, any defense or any claimed lack of due process that was raised or could have been raised by the defendant at the trial, which resulted in that judgment of conviction, or on an appeal from that judgment. *Id*. at paragraph nine of the syllabus.

{¶ 8} Appellant's argument in this matter could have been raised in the direct appeal from his sentence, as any inconsistency between the judgment entry of sentence and the oral pronouncement at the sentencing hearing would have been apparent at that time. Accordingly, appellant's claim is barred by the doctrine of res judicata, and his sole assignment of error is not well-taken.

{¶ 9} On consideration whereof, the court finds that appellant was not prejudiced or prevented from having a fair trial and 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.

Mark L. Pietrykowski, J. _____
JUDGE

Arlene Singer, J. _____
JUDGE

James D. Jensen, J.
CONCUR. _____
JUDGE