

[Cite as *State v. Bragg*, 2002-Ohio-2743.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 80438

STATE OF OHIO	:	
	:	ACCELERATED DOCKET
Plaintiff-Appellee	:	
	:	JOURNAL ENTRY
-vs-	:	
	:	AND
JOHN T. BRAGG	:	
	:	OPINION
Defendant-Appellant	:	

Date of Announcement of Decision:	MAY 30, 2002
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Character of Proceeding:	Criminal appeal from Court of Common Pleas Case No. CR-237718
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Judgment:	AFFIRMED
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Date of Journalization:

Appearances:

For Plaintiff-Appellee:	WILLIAM D. MASON Cuyahoga County Prosecutor DIANE SMILANICK, Assistant Prosecuting Attorney 1200 Ontario Street Cleveland, Ohio 44113
For Defendant-Appellant:	JOHN T. BRAGG, PRO SE Inmate No. 215-337 Grafton Correctional Institute 2500 S. Avon-Belden Road

Grafton, Ohio 44044

JAMES J. SWEENEY, J.:

{¶1} This appeal is before the Court on the accelerated docket pursuant to App.R. 11.1 and Loc. App.R. 11.1.

{¶2} Defendant-appellant John T. Bragg appeals, pro se, from a judgment of the Cuyahoga County Common Pleas Court denying his motion for a nunc pro tunc order. On review, we affirm the decision of the trial court.

{¶3} After a jury trial, defendant was convicted of aggravated murder (with felony murder and prior calculation and design specifications), kidnapping and aggravated robbery. Defendant received a life sentence.

{¶4} Defendant's conviction and sentence were affirmed by this Court in *State v. Bragg* (July 15, 1991), Cuyahoga App. No. 58859. Defendant's motion for relief from judgment pursuant to Civ.R. 60(B) was dismissed without hearing by the trial court. This Court affirmed that judgment in *State v. Bragg* (Sept. 5, 1996), Cuyahoga App. No. 70461.

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{¶5} On September 19, 2001, defendant filed an application for a nunc pro tunc order claiming that the trial court lacked subject matter jurisdiction over the matter because the indictment failed to specify the place of the offense. The trial court dismissed the motion without hearing.

{¶6} Defendant timely filed his appeal, assigning the following error:

{¶7} I. THE TRIAL COURT ERRED TO THE PREJUDICE OF  
THIS APPELLANT IN A CLEAR ABUSE OF  
DISCRETION.

{¶8} In his sole assignment of error, defendant contends that the trial court erred when it denied his application for a nunc pro tunc order because the indictment lacked a specific time and place. This identical argument was made to and rejected by this Court in *State v. Bragg* (Sept. 5, 1996), Cuyahoga App. No. 70461. Accordingly, we find that the law of the case<sup>1</sup> dictates that defendant's assignment of error is overruled.

Judgment affirmed.

It is ordered that appellee recover of appellant its costs herein taxed.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Court of Common Pleas to carry this judgment into execution. The defendant's conviction having been affirmed, any

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<sup>1</sup>The doctrine of "law of the case" provides "that the decision of a reviewing court in a case remains the law of that case on the legal questions involved for all subsequent proceedings in the case at both the trial and reviewing levels." *Nolan v. Nolan* (1984), 11 Ohio St.3d 1, 3.

bail pending appeal is terminated. Case remanded to the trial court for execution of sentence.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

MICHAEL J. CORRIGAN, P.J., and

TERRENCE O'DONNELL, J., CONCUR.

JAMES J. SWEENEY  
JUDGE

N.B. This entry is an announcement of the court's decision. See App.R. 22(B), 22(D) and 26(A); Loc.App.R. 22. This decision will be journalized and will become the judgment and order of the court pursuant to App.R. 22(E) unless a motion for reconsideration with supporting brief, per App.R. 26(A), is filed within ten (10) days of the announcement of the court's decision. The time period for review by the Supreme Court of Ohio shall begin to run upon the journalization of this court's announcement of decision by the clerk per App.R. 22(E). See, also, S.Ct.Prac.R. 112, Section 2(A)(1).