

[Cite as *State v. Townsend*, 2010-Ohio-5147.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94754

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

MARLON TOWNSEND

DEFENDANT-APPELLANT

**JUDGMENT:
AFFIRMED**

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-443923

BEFORE: Gallagher, A.J., McMonagle, J., and Cooney, J.

RELEASED AND JOURNALIZED: October 21, 2010

FOR APPELLANT

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ATTORNEYS FOR APPELLEE

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SEAN C. GALLAGHER, A.J.:

{¶ 1} This cause came to be heard upon the accelerated calendar pursuant to App.R. 11.1 and Loc.R. 11.1, the trial court records, and briefs of counsel.

{¶ 2} Appellant, Marlon Townsend, appeals the trial court's decision denying his motion to vacate a void judgment. For the reasons stated herein, we affirm.

{¶ 3} In February 2006, Townsend was convicted of two counts of drug trafficking with major drug offender specifications and one count of possession of drugs with a major drug offender specification. The trial court sentenced him to a total prison term of ten years. This court affirmed Townsend's conviction in *State v. Townsend*, Cuyahoga App. No. 88065, 2007-Ohio-2370, appeal not allowed, 115 Ohio St.3d 1442, 2007-Ohio-5567, 875 N.E.2d 103. We also denied his application for reopening in *State v. Townsend*, Cuyahoga App. No. 88065, 2007-Ohio-6638, appeal not allowed, 117 Ohio St.3d 1462, 2008-Ohio-1635, 884 N.E.2d 69.

{¶ 4} On January 22, 2010, Townsend filed a motion to vacate a void judgment. He argued that because he was indicted with a codefendant and there was no motion to sever the defendants, once his codefendant entered guilty pleas to an amended indictment, the prosecution of Townsend should have ended. The trial court denied the motion, and Townsend filed this appeal.

{¶ 5} Townsend raises three assignments of error for our review. Under his first assignment of error, he argues that the trial court was required to issue findings of fact and conclusions of law, which he requested in his motion. Townsend has failed to set forth any controlling authority requiring a court to issue findings of fact and conclusions of law when denying a motion to vacate a void judgment. Insofar as Townsend relies on

Civ.R. 52, that rule applies when questions of fact are tried by the court without a jury and has no applicability herein. Furthermore, there is no merit to Townsend's argument that his convictions are void. Townsend and his codefendant were individually charged for the crimes. The disposition of the charges against his codefendant did not provide any basis for discharging Townsend or otherwise impact the charges upon which Townsend was indicted and convicted.

{¶ 6} Under his second assignment of error, Townsend argues that the trial court's judgment is invalid because it contains an electronic, "rubber stamp" signature. Cuyahoga County Common Pleas Court Loc.R. 19.1 authorizes the use of electronic signatures, and this court has previously upheld the use of electronic signatures. *State v. Anderson*, Cuyahoga App. No. 92576, 2010-Ohio-2085; *State v. Pinkney*, Cuyahoga App. No. 91861, 2010-Ohio-237.

{¶ 7} Under his third assignment of error, Townsend argues that the trial court prematurely denied his motion before the time for filing a response brief had run. A review of the record reflects that the state filed a brief in opposition prior to the trial court's ruling.

{¶ 8} Finding no merit to the assignments of error, we affirm the judgment of the trial court.

Judgment affirmed.

It is ordered that appellee recover from appellant 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 common pleas court to carry this judgment into execution.

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

SEAN C. GALLAGHER, ADMINISTRATIVE JUDGE

CHRISTINE T. MCMONAGLE, J., and
COLLEEN CONWAY COONEY, J., CONCUR