

[Cite as *State v. Braun*, 2011-Ohio-11.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94467

STATE OF OHIO

PLAINTIFF-APPELLEE

VS

JEFFREY BRAUN

DEFENDANT-APPELLANT

**JUDGMENT:
AFFIRMED**

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-496324-A

BEFORE: Rocco, P.J., Stewart, J., and Cooney, J.

RELEASED AND JOURNALIZED: January 6, 2011

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KENNETH A. ROCCO, P.J.:

{¶ 1} Defendant-appellant Jeffrey Braun appeals from the sentence imposed by the trial court upon him at the resentencing hearing ordered by this court in *State v. Braun*, Cuyahoga App. No. 91131, 2009-Ohio-4875 (“*Braun I*”). The Ohio Supreme Court subsequently declined to accept Braun’s appeal of this court’s decision. *State v. Braun*, 124 Ohio St.3d 1475, 2010-Ohio-254, 921 N.E.2d 246.

{¶ 2} Braun presents 14 assignments of error, but all of them pertain to his original conviction and sentence. In fact, from the record, it is apparent that the

appellate brief is a copy of the brief counsel previously submitted in *Braun I*, but for the single assignment of error in *Braun I* this court sustained.

{¶ 3} Since each and every one of these assignments of error exhaustively was addressed and resolved in *Braun I*, and since the supreme court refused to review this court’s decision, this court’s disposition of them remains the “law of the case,” and Braun’s assignments of error are barred by the doctrine of res judicata. *State v. Saxon*, 109 Ohio St.3d 176, 2006-Ohio-1245, 846 N.E.2d 824, ¶18; *State v. Gates*, Cuyahoga App. No. 82385, 2004-Ohio-1453, fn. 1; see, also, *State v. Moore*, Cuyahoga App. No. 83703, 2004-Ohio-6303. Therefore, they are all overruled.

{¶ 4} Moreover, as the Fourth Appellate District Court observed in *State v. Davis*, Highland App. No. 09CA19, 2009-Ohio-7083, at ¶12:

{¶ 5} “[The] record on appeal is limited. It consists of ‘[t]he original papers and exhibits thereto filed in the trial court, the transcript of proceedings, if any, including exhibits, and a certified copy of the docket and journal entries prepared by the clerk of the trial court * * *.’ App.R. 9(A). Our job is to determine the appeal on its merits based on the ‘record on appeal under App.R. 9.’ App.R. 12(A)(1)(b). Therefore, our factual review of a re-sentencing is limited to those matters directly associated with the re-sentencing, i.e.,[.] sentencing memoranda, the transcripts of [the] hearings [sic], and the judgment entr[y] memorializing the re-sentencing.”

{¶ 6} Since Braun presents absolutely no argument that the trial court erred in resentencing him, and since the record reflects that upon remand ordered by this court, the trial court complied with this court's order in *Braun I* and duly imposed a sentence on each of Braun's convictions in his presence, his sentence is affirmed pursuant to App.R. 12(B).

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. The defendant's conviction having been affirmed, any 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.

KENNETH A. ROCCO, PRESIDING JUDGE

MELODY J. STEWART, J., and
COLLEEN CONWAY COONEY, J., CONCUR