

[Cite as *State v. Gresham*, 2011-Ohio-5930.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 96735

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

EDWARD GRESHAM

DEFENDANT-APPELLANT

JUDGMENT:
AFFIRMED

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-475735

BEFORE: Blackmon, P.J., Cooney, J., and Keough, J.

RELEASED AND JOURNALIZED: November 17, 2011

FOR APPELLANT

Edward Gresham, Pro Se
Inmate No. 504309
Toledo Correctional Institution
2001 East Central Avenue
P.O. Box 80033
Toledo, Ohio 43608

ATTORNEYS FOR APPELLEE

William D. Mason
Cuyahoga County Prosecutor

Mary McGrath
Assistant Prosecuting Attorney
The Justice Center, 8th Floor
1200 Ontario Street
Cleveland, Ohio 44113

PATRICIA ANN BLACKMON, P.J.:

On January 19, 2006, a Cuyahoga County Grand Jury indicted appellant Edward Gresham on two counts each of felonious assault and kidnapping. In addition, the grand jury indicted Gresham on one count each of domestic violence and attempted murder of his wife. Gresham pleaded guilty to one count each of felonious assault, domestic violence, and kidnapping. The trial court sentenced Gresham to an aggregate prison term of 14 years. Gresham did not file a direct appeal.

On November 27, 2006, Gresham filed a motion to withdraw his guilty pleas, alleging that he pleaded guilty at the recommendation of his attorney and that he was assured that he would receive a prison sentence of two-to-four years. On December 1, 2006, the state filed its brief in opposition to Gresham's motion to withdraw his guilty pleas.

On January 27, 2007, Gresham filed a motion to correct and consolidate his sentences in conjunction with *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470. On January 31, 2007, the state filed its brief in opposition. On March 30, 2011, the trial court denied Gresham's motion to withdraw his guilty pleas and his motion to correct and consolidate his sentences in conjunction with *State v. Foster*.

In this pro se matter, Gresham assigns the following errors for our review:

“I. The trial court erred in denying appellant's motion to withdraw his guilty pleas.”

“II. The trial court erred in denying appellant's motion to correct and consolidate sentences.”

Initially, we note that Gresham did not file a transcript of the plea hearing. In Ohio, the appellant has the duty to file the transcript or such parts of the transcript that are necessary for evaluating the lower court's decision. See App.R. 9(B); *Knapp v. Edwards Laboratories* (1980), 61 Ohio St.2d 197, 199, 400 N.E.2d 384. The failure to file the transcript prevents this court from reviewing the appellant's assignments of error. *State*

v. Turner, Cuyahoga App. No. 91695, 2008-Ohio-6648, ¶13, appeal not allowed, 121 Ohio St.3d 1476, 2009-Ohio-2045, 905 N.E.2d 655.

Thus, absent certification of an adequate record, a reviewing court must presume regularity of the proceedings and affirm the judgment of the trial court. *In re B.B.*, Cuyahoga App. No. 96262, 2011-Ohio-3265, citing *Ostrander v. Parker–Fallis Insulation Co., Inc.* (1972), 29 Ohio St.2d 72, 278 N.E.2d 363. Accordingly, we overrule Gresham’s assigned errors.

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 be sent to said 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.

PATRICIA ANN BLACKMON, PRESIDING JUDGE

KATHLEEN ANN KEOUGH, J., CONCURS;
COLLEEN CONWAY COONEY, J., CONCURS
IN JUDGMENT ONLY