

STATE OF OHIO)
)ss:
COUNTY OF LORAIN)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

STATE OF OHIO

C. A. No. 09CA009555

Appellee

v.

REGINALD S. ROBERSON

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF LORAIN, OHIO
CASE No. 07CR074975

Appellant

DECISION AND JOURNAL ENTRY

Dated: December 7, 2009

WHITMORE, Judge.

{¶1} Defendant-Appellant, Reginald Roberson, appeals from his convictions in the Lorain County Court of Common Pleas. This Court dismisses his appeal.

I

{¶2} On January 31, 2008, the State issued an eleven-count indictment against Roberson charging him with the following offenses, plus specifications: two counts of rape; two counts of aggravated robbery; two counts of kidnapping; having a weapon while under disability; gross sexual imposition; carrying concealed weapons; transporting a loaded firearm in a motor vehicle; and resisting arrest. On October 30, 2008, the State supplemented the indictment to add four more counts: two counts of kidnapping and two counts of aggravated robbery, for a total of fifteen counts.

{¶3} Roberson pleaded not guilty to the counts and the matter proceeded to trial. The jury found Roberson guilty on some of the fifteen counts and their attendant specifications. On

February 24, 2009, the trial court journalized Roberson's convictions and sentenced him to 41 years in prison.

{¶4} Roberson filed a notice of appeal on March 16, 2009. On October 1, 2009, Roberson filed a motion to supplement the record under App.R. 9(E) and a motion to treat his appeal as premature under App.R. 4(C), attaching the trial court's August 13, 2009 "Amended Judgment Entry of Conviction and Sentence." In that amended entry, the trial court sua sponte clarified that: Counts 3, 4, 5, and 6 were dismissed by the State with the court's approval; the repeat violent offender specification sentences for the rape counts were to be served concurrently; the repeat violent offender specification sentences for the kidnapping counts were to be served concurrently; and the repeat violent offender specification sentence for the aggravated robbery count was to be served consecutive to the other specification sentences. Roberson now asserts two assignments of error for our review.

II

Assignment of Error Number One

"THE TRIAL COURT ERRED IN OVERRULING DEFENDANT-APPELLANT'S MOTION TO SUPPRESS, THEREBY VIOLATING HIS RIGHT TO BE SECURE FROM AN UNREASONABLE SEARCH AND SEIZURE UNDER THE FOURTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION, AND ARTICLE I, SECTION 14 OF THE CONSTITUTION OF THE STATE OF OHIO."

Assignment of Error Number Two

"THE VERDICT IN THIS CASE IS AGAINST THE SUFFICIENCY AND MANIFEST WEIGHT OF THE EVIDENCE, AND SHOULD BE REVERSED BECAUSE IT VIOLATES THE FIFTH, SIXTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION, AND ARTICLE I, SECTION 10 OF THE CONSTITUTION OF THE STATE OF OHIO."

{¶5} In his first assignment of error, Roberson argues that the trial court erred in denying his motion to suppress because the police did not have a reasonable articulable suspicion to stop his vehicle on the night of his arrest. In his second assignment of error, Roberson argues that there was insufficient evidence upon which to convict him, and that his convictions are against the manifest weight of the evidence. This Court lacks jurisdiction to consider Roberson’s appeal, however, because he has not appealed from a final appealable order.

{¶6} The Ohio Constitution limits an appellate court’s jurisdiction to the review of final judgments of lower courts. Ohio Const. Art. IV, § 3(B)(2). This Court must “sua sponte dismiss appeals which are not from final appealable orders.” *State v. Martin*, 9th Dist. No. 06CA0069, 2007-Ohio-5764, at ¶6. A “judgment of conviction *** must include the sentence and the means of conviction *** to be a final appealable order under R.C. 2505.02.” *State v. Baker*, 119 Ohio St.3d 197, 2008-Ohio-3330, at ¶19. Moreover, we have previously concluded that “a Journal Entry must dispose of all charges brought in a single case against a defendant in order to be final.” *State v. Goodwin*, 9th Dist. No. 23337, 2007-Ohio-2343, at ¶13; *State v. Abel*, 9th Dist. No. 08CA009310, 2008-Ohio-4938, at ¶8.

{¶7} In this case, Roberson’s original indictment contained eleven counts. The State later filed a supplemental indictment adding four more counts, for a total of fifteen counts. The February 24, 2009 sentencing entry from which Roberson appealed does not contain any reference to the disposition of counts 3, 4, 5, 6, or fifteen of his indictment. Because that order fails to “dispose of all charges brought in a single case against [him,]” it is not a final appealable order. *Goodwin* at ¶13. To the extent the trial court later amended its sentencing entry to clarify that counts 3, 4, 5, and 6 were dismissed by the State, that sentencing entry still fails to state any disposition as to count fifteen. Because the sentencing entry from which Roberson has attempted

to appeal is not a final appealable order, this Court lacks jurisdiction to consider his appeal. Accordingly, his appeal is dismissed.

III

{¶8} The February 24, 2009 sentencing entry in this case is not a final appealable order. Consequently, this Court lacks jurisdiction to address Roberson's appeal and it must be dismissed. All outstanding motions are denied.

Appeal dismissed.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(E). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

BETH WHITMORE
FOR THE COURT

MOORE, P. J.
CONCURS

CARR, J.
DISSENTS, SAYING:

{¶9} I respectfully dissent for the same reasons articulated in my dissent in *State v. Goodwin*, 9th Dist. No. 23337, 2007-Ohio-2343 (Carr, J., dissenting). I would address the assignments of error on the merits.

APPEARANCES:

PAUL A. GRIFFIN, Attorney at Law, for Appellant.

DENNIS WILL, Prosecuting Attorney, and BILLIE JO BELCHER, Assistant Prosecuting Attorney, for Appellee.