

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
WILLIAMS COUNTY

State of Ohio

Court of Appeals No. WM-12-001

Appellee

Trial Court No. 00 CR 177

v.

James B. Jones, Jr.

DECISION AND JUDGMENT

Appellant

Decided: December 21, 2012

* * * * *

Thomas A. Thompson, Williams County Prosecuting Attorney,
for appellee.

James B. Jones, Jr., pro se.

* * * * *

SINGER, P.J.

{¶ 1} This is an appeal from the judgment of the Williams County Court of Common Pleas following a resentencing hearing to correct the imposition of postrelease control. For the reasons that follow, we affirm.

{¶ 2} In 2002, appellant, James B. Jones, was convicted of kidnapping, robbery and aggravated murder. This court affirmed his convictions in *State v. Jones*, 6th Dist. No. WM-02-012, 2003-Ohio-1037.

{¶ 3} On November 30, 2011, appellant filed a motion for resentencing arguing that the trial court erred when sentencing him to postrelease control. The trial court granted his motion and scheduled a new sentencing hearing pursuant to *State v. Fischer*, 128 Ohio St.3d 92, 2010-Ohio-6238, 942 N.E.2d 332. Appellant now appeals from his resentencing setting forth the following assignment of error:

Whether a complete failure to advise a defendant about mandatory postrelease control at the plea colloquy renders the guilty plea unconstitutional, and the resulting attempted sentence a mere nullity and void.

{¶ 4} Although appellant appealed the trial court's 2012 resentencing order, his argument concerns the validity of his original plea hearing in 2002. We cannot address the merits of appellant's argument because appellant is barred from asserting this claim under the doctrine of res judicata. This issue could have been raised on direct appeal and, therefore, is barred from being raised in a subsequent proceeding. *State v. Perry*, 10 Ohio St.2d 175, 226 N.E.2d 104 (1967), paragraphs seven and nine of the syllabus. Even though the doctrine cannot bar review of the legality of the sentence where a court allegedly failed to advise the defendant of mandatory postrelease control, the doctrine

still applies to other aspects of the merits of the conviction. *Fischer*, ¶ 38-40.

Appellant's sole assignment of error is not well-taken.

{¶ 5} On consideration, the judgment of the Williams County Court of Common Pleas is affirmed. Appellant is ordered to pay the costs of this appeal pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Arlene Singer, P.J.

JUDGE

Thomas J. Osowik, J.

JUDGE

Stephen A. Yarbrough, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.