

**IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
TRUMBULL COUNTY, OHIO**

STATE OF OHIO,	:	O P I N I O N
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2010-T-0053
DONALD HALL,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 92 CR 142.

Judgment: Affirmed.

Dennis Watkins, Trumbull County Prosecutor, Administration Building, Fourth Floor,
160 High Street, N.W., Warren, OH 44481-1092 (For Plaintiff-Appellee).

Donald Hall, pro se, P.I.D. A265-679, Mansfield Correctional Institution, P.O. Box 57,
Mansfield, OH 43301-0057 (Defendant-Appellant).

TIMOTHY P. CANNON, P.J.

{¶1} This matter is submitted to this court on the record and the pro se brief of appellant, Donald Hall. Appellee, the state of Ohio, has not submitted a brief. Hall appeals the judgment entered by the Trumbull County Court of Common Pleas. The trial court denied various motions filed by Hall.

{¶2} This court has previously outlined the procedural history of this case. See *State v. Hall*, 11th Dist. No. 2007-T-0022, 2008-Ohio-2128 and *State v. Hall*, 11th Dist. No. 2008-T-0051, 2009-Ohio-6379.

{¶3} The instant appeal stems from an April 1, 2010 judgment of the trial court denying various motions filed by Hall. The trial court's judgment entry stated that since May 15, 2008, Hall has filed the following pleadings: motion in response by leave of court reply in contra to plaintiff's motion dated May 1, 2008; writ of mandamus; petition for replevin in the nature of settlement; judicial notice, discharge of debt with service filed; estoppel by acquiescence for the state's failure to timely rebuttal the previously affidavits herein for corpus delicti disjunctive allegations; summary judgment; response to state's January 6, 2010 motion and reinstatement of the November 18, 2009 petition; and a motion to strike.

{¶4} Hall raises several arguments in these motions. Hall alleges that the statements made by several victims, including L.H. and H.H., were false. Further, he asserts that H.H. signed an affidavit stating that no sexual conduct ever occurred between H.H. and himself. Hall references an unauthenticated article that was published in a local newspaper.

{¶5} Hall also maintains that the state, the Adult Parole Authority, and the parole board breached his plea agreement via their application of the new parole guidelines to his parole eligibility. Hall attached numerous copies of unauthenticated letters from the Ohio Parole Board and the Ohio Department of Rehabilitations and Correction.

{¶6} Hall has asserted seven assignments of error for our review. As we have previously stated, Hall has already raised several of his arguments on appeal in prior motions to the trial court and/or his direct appeal. Moreover, Hall could have raised

some of his arguments in direct appeal of his judgment entry of sentence. Therefore, many of his assigned errors are barred by the doctrine of *res judicata*.

{¶7} “[P]rinciples of *res judicata* prevent relief on successive, similar motions raising issues which were or could have been raised originally.” *Brick Processors, Inc. v. Culbertson* (1981), 2 Ohio App.3d 478, paragraph one of the syllabus. As stated by the Supreme Court of Ohio in *State v. Perry* (1967), 10 Ohio St.2d 175, paragraph nine of the syllabus:

{¶8} “Under the doctrine of *res judicata*, a final judgment of conviction bars a convicted defendant who was represented by counsel from raising and litigating in any proceeding except an appeal from that judgment, any defense or any claimed lack of due process that was *raised or could have been raised by the defendant at the trial*, which resulted in that judgment of conviction, *or on an appeal* from that judgment.” (Emphasis sic.)

{¶9} As Hall’s first, second, third, and fourth assignments of error relate to Hall’s guilty plea, we address them in a consolidated fashion. Hall asserts the following:

{¶10} “[1.] To [appellant’s] prejudice: The trial court dismissal of 2953.23(A) for contract disparagement without finding of facts and conclusions of law, void [appellant’s] rights [under] Article 1, Section 28 of the Ohio Constitution.

{¶11} “[2.] The [erroneous judgment] with disregard of O.R.C. 2901.04, for a first felony [offender’s] rights, without ‘open court’ [burden] of proof criteria for sentence under felony one criteria, 4, 5, 6, 7, or 10 to 25 years for a larger sentence, was an error in law.

{¶12} “[3.] State [counsel’s] decree of Crim.R. 11(B)(2) is a bad faith error in law for ‘open court recorder proven facts under 2901.05 prosecution [burden] of proof that lacked intent or scienter required under Crim.R. 11(F) underlying [crimes] element.

{¶13} “[4.] It was disparagement and an abuse of discretion for the trial court to find appellant guilty for three indictments, when appellant plead to a single amended indictment with three counts under 2901.04 [and] 2941.25 for a [sentence] under a single offense.”

{¶14} Under these assigned errors, Hall takes issue with the entering of his guilty plea. Further, Hall maintains that he did “not understand that the sentence must be served fully and that there is no minimum sentence.” Hall also alleges that his sentence violated the plea agreement.

{¶15} As an aside, we note that under the fourth assigned error, Hall contends the application of the 1998 version of the parole guidelines to him at his 2005 parole hearing was improper. This court has previously addressed the retroactive application of parole guidelines in its 2004 opinion. *State v. Hall*, 11th Dist. No. 2003-T-0114, 2004-Ohio-6471, at ¶32-58.

{¶16} These arguments are barred by the doctrine of res judicata, since Hall could have raised them in a direct appeal. *State v. Szefcyk* (1996), 77 Ohio St.3d 93, syllabus. Finally, these arguments are barred by res judicata because Hall has filed numerous motions to withdraw his guilty plea, all of which were denied by the trial court. In addition, some of those denials of his motions to withdraw his guilty plea were affirmed by this court on appeal. See *State v. Hall*, 11th Dist. No. 2001-T-0124, 2002-

Ohio-4704; *State v. Hall*, 2004-Ohio-6471; *State v. Hall*, 2008-Ohio-2128; *State v. Hall*, 2009-Ohio-6379.

{¶17} Hall's first, second, third, and fourth assignments of error are without merit.

{¶18} Hall's fifth assignment of error alleges:

{¶19} "The trial court abused [its] discretion with suspicion for bias and disparagement comments pursuant to the [court's] acceptance of plea contract with state of Ohio for a lesser sentence with H.H. under detoxification to [appellant's] determent for documented affidavit evidence under 2305.02(A), 2843.48. Actual innocence civil action 07-CVC-06-7500."

{¶20} We note that Hall has failed to comply with the briefing requirements set forth under App.R. 16(A)(7). Pursuant to App.R. 16(A)(7), a brief shall contain "[a]n argument containing the contentions of the appellant with respect to each assignment of error presented for review and the reasons in support of the contentions, with citations to the authorities, statutes, and parts of the record on which appellant relies."

{¶21} Hall argues that he was prejudiced as H.H. had knowledge of Hall's innocence. This argument is also precluded as Hall did not raise it at the trial court level. *State v. Marquez*, 11th Dist. No. 2007-A-0085, 2008-Ohio-5324, at ¶33. (Citation omitted.) Further, this argument is also barred by the doctrine of res judicata, since Hall could have raised it in a direct appeal. *State v. Szefcyk*, supra, at syllabus.

{¶22} Hall's fifth assignment of error is without merit.

{¶23} Hall's sixth assignment of error states:

{¶24} “The trial court abused its discretion when the court failed to hold a hearing to settle the disparagement of H.H. un rebutted affidavit for [state’s] lack of subject matter jurisdiction with [H.H.] as un rebutted proof.”

{¶25} Hall maintains that H.H. plotted to kill him after he is released from prison. In *State v. Hall*, 2009-Ohio-6379, at ¶106, we stated: “Hall has not demonstrated what relief the trial court could provide him due to the state’s exercise of its discretion on whether to pursue charges against another individual.”

{¶26} Hall now attempts to provide this court with options for relief, such as: (1) “Petition for replevin in the nature of the settlement,” and (2) “Judicial notice, discharge of debt with service filed.” As Hall previously raised this assigned error, it is barred by the doctrine of res judicata.

{¶27} Under this assigned error, Hall also states that the state failed to prove the mens rea necessary for his offenses. As Hall pled guilty to the crimes, the state did not need to prove all of the underlying elements of the offense. Further, we rejected this argument in *State v. Hall*, 2009-Ohio-6379, at ¶111-112.

{¶28} Hall’s sixth assignment of error is without merit.

{¶29} Hall’s seventh assignment of error states:

{¶30} “The right of appellant to act in a[n] honorable status and have [appellant’s] remedial remedy of discharge of debt are vested, which a breach of these rights [constitutes] remedies in damage.”

{¶31} Hall cites numerous federal statutes, the Truth and Lending Act, and directives of the United States Treasury to maintain that he is entitled to a discharge of any financial obligations.

{¶32} This argument is barred by the doctrine of res judicata, since Hall could have raised it in a direct appeal. *State v. Szeftcyk*, supra, at syllabus.

{¶33} Consequently, Hall's seventh assignment of error is without merit.

{¶34} Based on the opinion of this court, the judgment of the Trumbull County Court of Common Pleas is hereby affirmed.

DIANE V. GRENDALL, J.,

MARY JANE TRAPP, J.,

concur.