

COURT OF APPEALS
KNOX COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-vs-

MICHAEL S. SEVERNS

Defendant-Appellant

JUDGES:

Hon. W. Scott Gwin, P. J.
Hon. Sheila G. Farmer, J.
Hon. John W. Wise, J.

Case No. 05 CA 6

O P I N I O N

CHARACTER OF PROCEEDING:

Criminal Appeal from the Court of Common
Pleas, Case No. 01 CR 030019

JUDGMENT:

Affirmed

DATE OF JUDGMENT ENTRY:

December 30, 2005

APPEARANCES:

For Plaintiff-Appellee

For Defendant-Appellant

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Wise, J.

{¶1} Appellant Michael S. Severns appeals from the denial of his motion to avoid collection of court costs in the Knox County Court of Common Pleas. The appellee is the State of Ohio. The relevant facts leading to this appeal are as follows.

{¶2} On July 25, 2001, following a jury trial in the Knox County Court of Common Pleas, appellant was found guilty of rape. On August 17, 2001, the court imposed a ten-year prison sentence against appellant and ordered him to pay the costs of the action. In December 2004, appellant filed a “Motion to Withdrawl [sic] from Collection of Court Costs upon Defendant.” The State thereafter filed a responsive motion. On January 26, 2005, appellant’s motion was denied by the trial court.

{¶3} Appellant filed a notice of appeal on February 18, 2005. He herein raises the following sole Assignment of Error:

{¶4} “I. THE TRIAL COURT ERRED IN FAILING TO WAIVE COURT COSTS BY NOT VACATING THE ORDER OF GARNISHMENT WHERE DEFENDANT IS INDIGENT.”

I.

{¶5} In his sole Assignment of Error, appellant contends the trial court erred in declining to forgo collection of court costs against him. We disagree.

{¶6} In *State v. White*, 103 Ohio St.3d 580, 2004-Ohio-5989, 817 N.E.2d 393, the Ohio Supreme Court held that a trial court may assess court costs against an indigent defendant convicted of a felony as part of the sentence, and that the clerk of the court of common pleas may attempt to collect the costs from the indigent defendant. Therefore, in the case sub judice, we find the costs were properly assessed against

appellant and the trial court did not err in declining to vacate the order of garnishment to collect them. Accord *State v. Rockwell*, Stark App.No. 2004CA00193, 2005-Ohio-5213, ¶ 25.

{¶7} Accordingly, appellant's sole Assignment of Error is overruled.

{¶8} For the foregoing reasons, the judgment of the Court of Common Pleas, Knox County, Ohio, is hereby affirmed.

By: Wise, J.

Gwin, P. J., and

Farmer, J., concur.

JUDGES

