

STATE OF OHIO)
)ss:
COUNTY OF LORAIN)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

STATE OF OHIO

C.A. No. 14CA010624

Appellee

v.

HENRY VALDEZ

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF LORAIN, OHIO
CASE No. 10CR080323

Appellant

DECISION AND JOURNAL ENTRY

Dated: June 30, 2015

CARR, Judge.

{¶1} Appellant, Henry Valdez, appeals the judgment of the Lorain County Court of Common Pleas. This Court affirms.

I.

{¶2} On March 23, 2010, a complaint was filed in the Elyria Municipal Court charging Valdez with one count of rape. Valdez subsequently waived his right to a preliminary hearing and consented to the matter being bound over to the Lorain County Grand Jury. On May 5, 2010, the Lorain County Grand Jury indicted Valdez on one count of rape and one count of gross sexual imposition. After initially pleading not guilty to the charges at arraignment, Valdez appeared in the trial court and pleaded guilty to both counts in the indictment. The trial court imposed an eleven-year prison sentence on the count of rape and a four-year prison sentence on the count of gross sexual imposition. The trial court ran the sentences consecutively for a combined prison sentence of fifteen years. Valdez was also classified as a Tier III Sex Offender.

{¶3} Subsequently, on June 17, 2014, Valdez filed a pro se motion to vacate his conviction. The trial court issued a journal entry promptly denying the motion.

{¶4} On appeal, Valdez raises one assignment of error.

II.

ASSIGNMENT OF ERROR

TRIAL COURT LACKED SUBJECT MATTER JURISDICTION DUE TO AN INVALID COMPLAINT AND SUBSEQUENT WARRANT.

{¶5} In his sole assignment of error, Valdez claims that alleged deficiencies with the initial complaint filed in Elyria Municipal Court rendered the court unable to bind the case over to the Lorain County Court of Common Pleas. This Court disagrees.

{¶6} Though Valdez points to alleged issues with the initial complaint and warrant filed in the municipal court in support of his subject matter jurisdiction challenge, it is evident from the record that his argument is without merit.¹ “It is well settled that ‘[t]he Court of Common Pleas is, by [R.C. 2931.03], given original jurisdiction in felony cases. The felony jurisdiction is invoked by the return of a proper indictment by the grand jury of the county.’” *State v. Mose*, 9th Dist. Medina No. 11CA0083-M, 2013-Ohio-635, ¶ 9, quoting *Click v. Eckle*, 174 Ohio St. 88, 89 (1962). An offender cannot prevail on a post-conviction motion arguing that the court of common pleas did not have subject matter jurisdiction over a felony case when the trial court record contains a properly filed indictment. *State v. Bunnell*, 6th Dist. Lucas No. L-02-1015, 2002-Ohio-2828, ¶ 6. The record in this case contains a time-stamped indictment from May 5, 2010, charging Valdez with two felonies, rape and gross sexual imposition. It follows

¹ We note that “[a] challenge based upon lack of subject matter jurisdiction may be raised at any stage of the proceedings.” *State v. Cubic*, 9th Dist. Medina No. 10CA0082-M, 2011-Ohio-4990, ¶ 10.

that regardless of any alleged issues with the initial complaint filed in the municipal court, the Lorain County Court of Common Pleas gained subject matter jurisdiction over this felony matter upon the filing of the indictment.

{¶7} Valdez's assignment of error is overruled.

III.

{¶8} Valdez's assignment of error is overruled. The judgment of the Lorain County Court of Common Pleas is affirmed.

Judgment affirmed.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Lorain, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

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(C). 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.

DONNA J. CARR
FOR THE COURT

HENSAL, P.J.
MOORE, J.
CONCUR.

APPEARANCES:

HENRY VALDEZ, pro se, Appellant.

DENNIS P. WILL, Prosecuting Attorney, and NATASHA RUIZ GUERRIERI, Assistant Prosecuting Attorney, for Appellee.