

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

STATE OF OHIO,	:	
Plaintiff-Appellee,	:	
v.	:	No. 110318
RICKY JOHNSON,	:	
Defendant-Appellant.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: July 22, 2021

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-81-164134-ZA

Appearances:

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Daniel T. Van, Assistant Prosecuting Attornet, *for appellee*.

Ricky Johnson, *pro se*.

EILEEN A. GALLAGHER, J.:

{¶ 1} Defendant-appellant, Ricky Johnson a.k.a. Rodney Knuckles (“Johnson/Knuckles”), appeals, pro se, from the trial court’s denial of his pro se motion for a final appealable order.

{¶ 2} His sole assignment of error is:

Defendant respectfully ask this court for a final appealable order pursuant to Ohio Const. Art. IV, Sec 3(B)(2), R.C. 2505.02; Civ.R. 54(B).

{¶ 3} This appeal is from a case with a long and storied history.

{¶ 4} Johnson/Knuckles was found to be guilty of murder on July 7, 1981, at the conclusion of a trial by jury. That conviction was appealed and, in *State v. Johnson*, 8th Dist. Cuyahoga No. 44160, 1982 Ohio App. LEXIS 15386 (July 15, 1982), this court reversed the conviction and remanded the case for a new trial as the trial court failed to provide the jury with an instruction as to self-defense.

{¶ 5} Johnson/Knuckles then waived his right to a trial by jury and was found to be guilty of the crime of murder and was sentenced to a term of 15 years to life at the Columbus Correctional Facility.

{¶ 6} An appeal of that conviction was taken in which two assignments of error were raised. Specifically, appellant challenged the trial court's admission into evidence recorded testimony from the first trial and the admission into evidence of a statement which he made to the police shortly after the incident in question. Appellant's conviction was affirmed. *State v. Johnson*, 8th Dist. Cuyahoga No. 46837, 1983 Ohio App. LEXIS 13810 (Dec. 8, 1983). Thereafter, appellant filed, pro se, a motion to reopen that appeal which was denied on June 30, 2014, *State v. Johnson*, 8th Dist. Cuyahoga No. 46837, 2014-Ohio-2972; a motion for reconsideration which was denied on May 14, 2015 and the Ohio Supreme Court

ultimately declined to accept jurisdiction in *State v. Johnson*, 143 Ohio St.3d 1467, 2015-Ohio-3733, 37 N.E.3d 1251.

{¶ 7} *SO Rodney Knuckles a.k.a. Ricky Johnson [sic] v. Honorable Terrence O'Donnell*, 8th Dist. Cuyahoga No. 51746, was dismissed on March 24, 1986 on motion of the respondent "since relator has not stated a claim for which relief may be granted nor does he presently have an appeal pending."

{¶ 8} Appellant next filed an appeal. *State v. Johnson*, 8th Dist. Cuyahoga No. 53697, was dismissed, sua sponte, on May 13, 1987, as appellant failed to file a praecipe in accordance with Loc.App.R. 4.

{¶ 9} *State of Ohio, ex Rel. Rodney Knuckles v. Judge Terrence O'Donnell*, 8th Dist. Cuyahoga No. 53544, a mandamus action seeking an order of this court to compel the trial court to rule on a motion filed pursuant to Crim.R. 47, was dismissed as the trial court had made a ruling.

{¶ 10} *Knuckles a.k.a. Johnson v. Judge Terrence O'Donnell*, 8th Dist. Cuyahoga No. 56278, filed as a writ of mandamus seeking an order compelling the Southern Ohio Correctional Facility to credit for time served in the county jail, was dismissed December 27, 1988 on respondent's motion.

{¶ 11} *State of Ohio, ex Rel. Rodney Knuckles; a.k.a. Ricky Johnson v. Adult Parole Auth.*, 8th Dist. Cuyahoga No. 56546 was a mandamus action which was transferred to the Tenth Appellate District on respondent's motion for a change of venue. The Tenth District dismissed the action which was sustained by the Supreme Court of Ohio. Ohio Supreme Court Case No. 1990-1999.

{¶ 12} *State ex rel. Rodney Knuckles v. Judge Terrence O'Donnell*, 8th Dist. Cuyahoga No. 60477, yet another mandamus action, was denied. This court held that “an unreasonable time has not elapsed since relator’s April 1990 petition for relief from judgment. Thus, an extraordinary remedy is not required...”

{¶ 13} In *State v. Johnson*, 8th Dist. Cuyahoga No. 60911, this court denied appellant’s motion for relief after judgment. The Supreme Court of Ohio overruled appellant’s motion for an order directing the court of appeals to certify its record. *State v. Johnson*, Ohio Supreme Court Case No. 1991-0181.

{¶ 14} On September 30, 2013, appellant filed, pro se, a notice of appeal in *State v. Johnson* 8th Dist. Cuyahoga No. 100467, which was sua sponte dismissed on November 26, 2013 as appellant failed to file a brief.

{¶ 15} This court dismissed Johnson/Knuckles’ appeal in *State v. Knuckles*, 8th Dist. Cuyahoga No. 101309, 2014-Ohio-3823. In that case, Johnson/Knuckles appealed the denial of a successive postconviction relief petition (actually his sixth petition).

{¶ 16} Appellant commenced a mandamus and/or procedendo action in *State of Ohio, ex rel. v. Judge of Court of Common Pleas*, 8th Dist. Cuyahoga No. 105754, 2017-Ohio-5733, on May 8, 2017 seeking an order from this court compelling the Cuyahoga County Court of Common Pleas to render a judgment on a postconviction relief petition. As the trial court had, in fact, dismissed that petition complete with findings of fact and conclusions of law, this court denied Johnson/Knuckles’ petition.

{¶ 17} *State v. Johnson a.k.a. Knuckles*, 8th Dist. Cuyahoga No. 106347, was dismissed by this court on motion of the state of Ohio and it was held “Appellant raised the same issue that is the subject of the instant appeal (the validity of the jury waiver) in a prior appeal. *See State v. Knuckles*, 8th Dist. Cuyahoga No. 101309, 2014-Ohio-3823. The doctrine of res judicata precludes appellant from raising claims that could have been or were raised in his direct appeal (103458). *See State v. Perry*, 10 Ohio St.2d 175, 226 N.E.2d 104 (1967). Therefore, res judicata bars his appealing the issue again.”

{¶ 18} In *State v. Johnson*, 8th Dist. Cuyahoga No. 108419, 2020-Ohio-191, Johnson appealed from the trial court’s denial of his “motion to vacate void sentence & court plea hearing.” This court held that Johnson’s sentence was not void and that res judicata precludes appellant from raising this issue on appeal.

{¶ 19} In this appeal, appellant is once again litigating his claim regarding the validity of his jury waiver. Albeit the verbiage in the many trial court filings and appeals to this court, that does not affect the fact that this issue has been repeatedly litigated. It appears that appellant is now arguing that his conviction was void for lack of subject-matter jurisdiction.

{¶ 20} To be very clear, Ricky Johnson a.k.a. Rodney Knuckles did, in fact execute a waiver of jury trial on April 11, 1983, in open court and on the record with the prosecuting attorney also present. That fact was journalized by the trial court in Volume 528, page 581 of the docket. These documents were located by an exhaustive search of the court’s records.

{¶ 21} This appeal is barred by res judicata. Under the doctrine of res judicata, a defendant who was represented by counsel is barred from raising an issue in a petition for postconviction relief if the defendant raised or could have raised the issue at trial or on direct appeal. *State v. Parham*, 8th Dist. Cuyahoga No. 108716, 2020-Ohio-496, citing *State v. Reynolds*, 79 Ohio St.3d, 679 N.E.2d 1131 (1997); *State v. Szefcyk*, 77 Ohio St.3d 93, 671 N.E.2d 233 (1996). According to *Szefcyk*, res judicata is applicable to all postconviction proceedings.

{¶ 22} The appellant has repeatedly raised the same issue of no jury waiver in the trial court in postconviction proceedings and in this court appealing the denial or dismissal of those postconviction relief petitions.

{¶ 23} Pursuant to Loc.App.R. 23(A), an appeal shall be considered frivolous if it is not reasonably grounded in fact or warranted by existing law. Loc.App.R. 23(B) provides that a party that habitually, persistently and without reasonable cause engages in frivolous conduct, may be declared a vexatious litigator subject to filing restrictions. Herein Johnson/Knuckles has filed numerous appeals, original actions and an App.R. 26(B) application for reopening.

{¶ 24} We find that Johnson/Knuckles' continued attempt to litigate the same issue, repeatedly, constitutes frivolous conduct pursuant to Loc.App.R. 23(A).

{¶ 25} Thus, we find Johnson/Knuckles to be a vexatious litigator under Loc.App.R. 23. Accordingly, Johnson/Knuckles is prohibited from instituting any future legal proceedings in the Eighth District Court of Appeals of Ohio without first obtaining leave, and he is further prohibited from filing any proceedings in the

Eighth District Court of Appeals of Ohio without the filing fee and security for costs required by Loc.App.R. 3(A). Any request to file an appeal or original action shall be submitted to the clerk of this court for the court's review.

{¶ 26} Judgment affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were not reasonable grounds for this appeal.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

EILEEN A. GALLAGHER, JUDGE

ANITA LASTER MAYS, P.J., and
KATHLEEN ANN KEOUGH, J., CONCUR