

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- VS -	:	CASE NO. 2017-P-0011
JOSEPH W. WEIDEMAN,	:	
Defendant-Appellant.	:	

Civil Appeal from the Portage County Court of Common Pleas, Case No. 2013 CR 0433.

Judgment: Appeal dismissed.

Victor V. Vigluicci, Portage County Prosecutor, and *Kristina Reilly*, Assistant Prosecutor,
241 South Chestnut Street, Ravenna, OH 44266 (For Plaintiff-Appellee).

Joseph W. Weideman, pro se, PID# A644-593, Trumbull Correctional Institution, P.O.
Box 901, 5701 Burnett Road, Leavittsburg, OH 44430-0901 (Defendant-Appellant).

TIMOTHY P. CANNON, J.

{¶1} Appellant, Joseph W. Weideman, attempts to appeal from a purported denial of his March 7, 2017 petition to vacate or set aside conviction and sentence in Portage County Court of Common Pleas Case No. 2013 CR 0433. The record fails to indicate that a ruling on Mr. Weideman's petition has been entered in the court below. As a result, there is no final, appealable order before us to review, and we are without jurisdiction to take any action except dismiss the appeal.

{¶2} Attached to Mr. Weideman's notice of appeal is a copy of an entry issued

by the trial court on March 10, 2017, which states: “The Defendant’s Motion to Vacate Conviction and Dismiss the Indictment is denied without hearing.” The entry, however, was issued in Portage County Case No. 2013 CR 0443, captioned “State of Ohio vs. Matthew M. Lusane.”

{¶3} Mr. Lusane’s appeal is also presently before this court for review, and that record reveals Mr. Lusane filed a motion, similar to Mr. Weideman’s petition, on the same date, March 7, 2017. The record in Mr. Lusane’s appeal includes the original of the trial court’s March 10, 2017 entry denying his motion.

{¶4} The record in Mr. Weideman’s appeal includes a copy, not an original, of the March 10, 2017 entry from Mr. Lusane’s case, and it does not include any ruling on Mr. Weideman’s petition. The online docket in Mr. Weideman’s appeal indicates, on March 10, 2017, that a “motion to vacate conviction and dismiss the indictment is denied without hearing (see image).” The image attached to this docket entry is, again, a copy of the March 10, 2017 entry from Mr. Lusane’s case.

{¶5} The entry from which Mr. Weideman is attempting to appeal is a nullity as it pertains to his case, and his petition to vacate or set aside conviction and sentence remains pending before the trial court. As such, there is no final, appealable order before us, and we do not have jurisdiction to review Mr. Weideman’s assignments of error. See Ohio Constitution, Article IV, Section 3(B)(2).

{¶6} Appeal dismissed.

DIANE V. GRENDELL, J., concurs,

COLLEEN MARY O’TOOLE, J., dissents.