

[Cite as *State v. Patterson*, 2010-Ohio-645.]

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-vs-

JUVALIAN CALVIN PATTERSON

Defendant-Appellant

JUDGES:

Hon. William B. Hoffman, P.J.

Hon. Sheila G. Farmer, J.

Hon. John W. Wise, J.

Case No. 2009-CA-00198

OPINION

CHARACTER OF PROCEEDING:

Appeal from the Stark County Court of
Common Pleas, Case No. 2001-CR-1623

JUDGMENT:

Affirmed

DATE OF JUDGMENT ENTRY:

February 22, 2010

APPEARANCES:

For Plaintiff-Appellee

For Defendant-Appellant

JOHN D. FERRERO,
PROSECUTING ATTORNEY,
STARK COUNTY, OHIO

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Hoffman, P.J.

{¶1} Defendant-appellant Juvalian C. Patterson appeals his sentence entered by the Stark County Court of Common Pleas. Plaintiff-appellee is the State of Ohio.

STATEMENT OF THE FACTS AND CASE

{¶2} On December 20, 2001, the Stark County Grand Jury indicted Appellant on one count of aggravated burglary, in violation of R.C. 2911.11(A)(2), a felony of the first degree; one count of robbery, in violation of R.C. 2911.02(A)(2), a felony of the second degree; and one count of carrying a concealed weapon, in violation of R.C. 2923.12(A), a felony of the fourth degree. The aggravated burglary charge contained a firearm specification.

{¶3} On February 11, 2002, Appellant withdrew his former not guilty plea, and entered a plea of guilty to the charges contained in the indictment.

{¶4} As memorialized in a Judgment Entry filed on February 15, 2002, Appellant was sentenced to three years in prison for aggravated burglary, and to a consecutive three year sentence on the firearm specification. Appellant also was sentenced to three years in prison for the robbery charge. The trial court, in its entry, ordered that such sentence be served concurrently with the aggravated burglary sentence. With respect to the charge of carrying a concealed weapon, the trial court sentenced appellant to eleven months in prison, to be served concurrently with the sentences for aggravated burglary and robbery. Thus, appellant's aggregate prison sentence in the case sub judice was six years. Finally, the trial court, in its entry, ordered that appellant's sentence in this matter be served concurrently with "the underlying sentence in case number 2002CR0100, but must be served consecutive to

the firearm specification in that case, for a combined total for both cases of nine (9) years in prison.”

{¶15} Subsequently, Appellant filed a petition for post-conviction relief, as well as a motion to withdraw guilty plea, which motions were denied by the trial court. Appellant also filed a direct appeal from his conviction and sentence to this Court, which overruled the assigned errors and affirmed his conviction and sentence. Appellant then filed three motions for judicial release.

{¶16} Appellant filed a motion for jail time credit, which the trial court overruled via Judgment Entry of February 28, 2007, finding Appellant already received 90 days jail time credit. Appellant did not appeal the February 28, 2007 Judgment Entry denying his motion for jail time credit; rather, Appellant renewed the motion two years later. Via Judgment Entry of July 28, 2009, the trial court again overruled the motion finding Appellant had previously received 90 days jail time credit.

{¶17} Appellant now appeals, assigning as sole error:

{¶18} “I. THE TRIAL COURT VIOLATED APPELLANT’S CONSTITUTIONAL RIGHT TO EQUAL PROTECTION WHEN [THE] COURT DENIED / FAILURE TO ORDER THE BUREAU OF SENTENCE COMPUTATION OFFICE TO CREDIT THE APPELLANT (90) DAYS OF JAIL TIME CREDIT HE IS ENTITLED TO ACCORDING TO LAW AND TRIAL COURT VIOLATED APPELLANT’S RIGHTS BY MISAPPLYING JAIL TIME CREDIT BY NOT APPLYING THE 90 DAYS CREDIT TOWARDS **EACH** TERM, WHICH 90 DAYS CREDIT SHOULD BE REDUCED OFF OF APPELLANT’S TOTAL TERM.”

I

{¶9} Under the doctrine of res judicata, “ ‘[a] valid, final judgment rendered upon the merits bars all subsequent actions based upon any claim arising out of the transaction or occurrence that was the subject matter of the previous action.’ ” *State ex rel. Denton v. Bedinghaus*, 98 Ohio St.3d 298, 301, 2003-Ohio-861, 784 N.E.2d 99, quoting *Grava v. Parkman Twp.*, 73 Ohio St.3d 379, 1995-Ohio-331, 653 N.E.2d 226, syllabus. Thus, a final judgment on the merits of an action precludes the parties from relitigating issues that were or could have been raised in that action. *Trojanski v. George*, Cuyahoga App. No. 83472, 2004-Ohio-2414. Moreover, the doctrine of res judicata prohibits a collateral attack on an otherwise final judgment. *Southridge Civic Assn. v. Parma*, Cuyahoga App. No. 80230, 2002-Ohio-2748.

{¶10} Upon review, Appellant’s argument could have been raised on direct appeal of his original convictions and sentence entered February 15, 2002 as well as from the trial court’s February 28, 2007. As Appellant did not appeal the latter judgment entry, the subsequent motion for jail time credit filed two years later amounts to a collateral attack on the trial court’s previous entry and is barred by res judicata.

{¶11} The judgment of the Stark County Court of Common Pleas is affirmed.

By: Hoffman, P.J.

Farmer, J. and

Wise, J. concur

s/ William B. Hoffman
HON. WILLIAM B. HOFFMAN

s/ Sheila G. Farmer
HON. SHEILA G. FARMER

s/ John W. Wise
HON. JOHN W. WISE

IN THE COURT OF APPEALS FOR STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO	:	
	:	
Plaintiff-Appellee	:	
	:	
-vs-	:	JUDGMENT ENTRY
	:	
JUVALIAN CALVIN PATTERSON	:	
	:	
Defendant-Appellant	:	Case No. 2009-CA-00198

For the reason stated in our accompanying Opinion, the judgment of the Stark County Court of Common Pleas is affirmed. Costs to Appellant.

s/ William B. Hoffman
HON. WILLIAM B. HOFFMAN

s/ Sheila G. Farmer
HON. SHEILA G. FARMER

s/ John W. Wise
HON. JOHN W. WISE