

[Cite as *State v. Ruthers*, 2017-Ohio-582.]

COURT OF APPEALS
DELAWARE COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-vs-

ADAM T. RUTHERS

Defendant-Appellant

JUDGES:

Hon. William B. Hoffman, P.J.

Hon. John W. Wise, J.

Hon. Craig R. Baldwin, J.

Case No. 16 CAA 05 0023

OPINION

CHARACTER OF PROCEEDING:

Appeal from the Delaware County Court of
Common Pleas, Case No. 14 CR I 03 0128

JUDGMENT:

Reversed and Final Judgment Entered

DATE OF JUDGMENT ENTRY:

February 2, 2017

APPEARANCES:

For Plaintiff-Appellee

CAROL HAMILTON O'BRIEN
Delaware County Prosecuting Attorney
ANDREW M. BIGLER
Assistant Prosecuting Attorney
140 North Sandusky Street, Third Floor
Delaware, Ohio 43015

For Defendant-Appellant

ADAM T. RUTHERS, PRO SE
#724397
Warren Correctional Institution
5787 State Route 63
Lebanon, Ohio 45036

Hoffman, P.J.

{¶1} Defendant-appellant Adam T. Ruthers appeals the April 25, 2016 Judgment Entry of the Court of Common Pleas of Delaware County, which denied his request to have funds returned to him by the clerk for the Delaware County Court of Common Pleas. The state of Ohio is the plaintiff-appellee.

STATEMENT OF THE CASE¹

{¶2} Appellant was sentenced via an Amended Judgment Entry on Guilty Pleas and Sentencing filed July 15, 2014. As pertinent hereto, in that entry, “The Court stayed execution of court costs until Defendant is released from the Department of Rehabilitation and Corrections.” See Amended Judgment Entry at p. 5.

{¶3} On April 4, 2016, a deputy clerk of the court issued an Execution For Costs to the Sheriff of Delaware County against Appellant’s property in the amount of \$1,183.12, representing the costs of prosecution of Appellant’s criminal case. A Sheriff’s return was filed April 12, 2016, indicating \$1,217.12 returned to the clerk under check number 12908.²

{¶4} The next filing in the record is the trial court’s April 25, 2016 judgment entry denying Appellant’s request money be returned to him. That entry indicates the defendant [Appellant] asked the trial court to order the clerk to return some of the funds to him. The trial court responded, “I am not willing to return the money to the defendant, and his request is therefore denied.”

¹ A rendition of the facts is unnecessary for our disposition of this appeal.

² The additional \$24.00 represents the costs associated with the writ for Execution for Costs.

{¶15} It is from that judgment entry Appellant prosecutes this appeal.

{¶16} At the outset, we note Appellant's brief fails to conform to the requirements of Rule 16 of the Ohio Rules of Appellate Procedure. Despite such non-compliance, we elect to address the merit of Appellant's grievance.

{¶17} The basis of Appellant's argument is that \$1,217.12 was taken from his prison account with the Department of Rehabilitation and Corrections ("DRC") and applied to his court costs in contravention of the amended judgment entry which stayed execution on those costs until he is released from prison.

{¶18} The state of Ohio responds merely by pointing out the Delaware County Clerk of Courts has notified the Prison Cash Office on multiple occasions to not take any more money because costs are suspended until Appellant is released.

{¶19} Specifically, as to Appellant's claimed error herein, the state of Ohio responds, "As to the return of any money collected to date, the State would defer to the judgment of this Court."

{¶10} We find execution on Appellant's prison account was in clear contravention of the trial court's amended judgment entry. We find the trial court erred in failing to order the money refunded to Appellant's account.

{¶11} The judgment of the Delaware County Court of Common Pleas is reversed.

By: Hoffman, P.J.

Wise, J. and

Baldwin, J. concur