

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
OTTAWA COUNTY

State of Ohio

Court of Appeals No. OT-13-020

Appellee

Trial Court No. 98CR027

v.

Anthony D. Moore

DECISION AND JUDGMENT

Appellant

Decided: March 28, 2014

* * * * *

Mark E. Mulligan, Ottawa County Prosecuting Attorney, and
Andrew M. Bigler, Assistant Prosecuting Attorney, for appellee.

Anthony D. Moore, pro se.

* * * * *

OSOWIK, J.

{¶ 1} This is an appeal from a May 13, 2013 judgment of the trial court denying appellant's most recent motion in connection to his 1998 conviction on two counts of aggravated murder arising from his slaying of a Port Clinton, Ohio, couple. On August 24, 1998, appellant was found guilty of two counts of aggravated murder with

specifications and was sentenced to two consecutive terms of life in prison. For the reasons set forth below, this court affirms the judgment of the trial court.

{¶ 2} Pro se appellant, Anthony Moore, sets forth the following two assignments of error:

THE TRIAL COURT COMMITTED PREJUDICIAL ERROR
WHEN IT SENTENCED APPELLANT ON HIS GUILTY PLEAS
WITHOUT AN EXECUTED WRITTEN JURY TRIAL WAIVER
SIGNED BY APPELLANT IN VIOLATION OF R.C. 2945.05.

THE TRIAL COURT COMMITTED PREJUDICIAL ERROR
WHEN IT IMPOSED DOUBLE PUNISHMENT FOR THE SAME
OFFENSE THAT AROSE OUT OF THE SAME INCIDENT.

{¶ 3} The following undisputed facts are relevant to this appeal. On February 22, 1998, a Port Clinton, Ohio, couple was brutally attacked in their home. The wife was beaten so severely that she immediately passed away. The assailant then slit the throat of the husband, who survived for approximately one month. The husband subsequently passed away as a direct result of the fatal injuries inflicted upon him by appellant. Prior to his death, the husband positively identified appellant as the assailant who murdered his wife and slit his throat.

{¶ 4} On August 24, 1998, pursuant to a voluntarily negotiated plea agreement, appellant pled guilty to two counts of aggravated murder. In exchange, all remaining

counts against him in connection to his crimes were dismissed. Appellant was sentenced to two consecutive terms of life imprisonment.

{¶ 5} On November 12, 1999, this court affirmed the judgment of the trial court upon direct appeal. *State v. Moore*, 6th Dist. Ottawa No. OT-98-036, 1999 WL 1022868 (Nov. 12, 1999). Subsequently, in 2001 and 2007 respectively, appellant filed motions in an attempt to withdraw his 1998 pleas. The motions were determined to be without merit and were denied. Following the 2007 denial, counsel was appointed and the case was again appealed to this court. The matter was again found to be lacking in merit. The second appeal to this court was not well-taken.

{¶ 6} On May 13, 2013, appellant filed a “motion to correct illegal sentence,” also arising from his 1998 murder convictions. On July 18, 2013, the motion was determined to be without merit and was denied. This third appeal of appellant’s 1998 conviction ensued.

{¶ 7} In appellant’s first assignment of error, he unilaterally contends that he did not sign a waiver to the right of a trial by jury. The record wholly belies this unsupported assertion. On the contrary, the record clearly reflects a proper waiver and contains appellant’s executed waiver of the right to a trial by jury.

{¶ 8} Appellant unpersuasively responds by proclaiming, “Appellant never sign [sic] a jury trial waiver [sic] the trial court did not have jurisdiction to sentence him under the guilty plead [sic]. Although the prosecution produce [sic] a waiver that was sign [sic] by someone, [i]t surely wasn’t [a]ppellant’s signature.”

{¶ 9} We note that the record reflects appellant’s lengthy history of frivolous denials of basic factual evidence plainly encompassed in the record, such as the current denial of the legitimacy of the executed waiver to the right of a trial by jury in the record. We are not persuaded. We find appellant’s first assignment of error not well-taken.

{¶ 10} In appellant’s second assignment of error, he unilaterally and incorrectly asserts that the trial court erred in imposing “double punishment,” for the “same offense.” The record reflects that on February 22, 1998, a husband and wife were brutally attacked in their Port Clinton, Ohio, home. The record reflects that both the husband and wife died as a result of the fatal injuries inflicted by the assailant during the attack. The record reflects that the husband positively identified appellant as the assailant prior to his death. The record reflects that appellant was properly convicted, as previously affirmed by this court, of two counts of aggravated murder, one count for each of the two murder victims.

{¶ 11} Appellant’s latest unsupported claim of error premised on the assertion that the underlying events constituted one offense and one incident so as to bar “double punishment” is factually and legally incorrect. The record indisputably reflects that appellant was properly sentenced in conformity with being convicted of two separate counts of aggravated murder, one count for each of the two people murdered by appellant. There were multiple victims, multiple offenses, and multiples convictions. Thus, the perception of “double punishment” is wholly inaccurate. We find appellant’s second assignment of error not well-taken.

{¶ 12} Wherefore, the judgment of the Ottawa County Court of Common Pleas is hereby affirmed. Appellant is ordered to pay the costs of this appeal pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Mark L. Pietrykowski, J.

JUDGE

Thomas J. Osowik, J.

JUDGE

Stephen A. Yarbrough, P.J.
CONCUR.

JUDGE

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