

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

State of Ohio

Court of Appeals No. WD-13-030

Appellee

Trial Court No. 2007CR0212

v.

Jose Rodriguez

DECISION AND JUDGMENT

Appellant

Decided: April 4, 2014

* * * * *

Paul A. Dobson, Wood County Prosecuting Attorney, Gwen
Howe-Gebers, Chief Assistant Prosecuting Attorney, and
David E. Romaker Jr., Assistant Prosecuting Attorney, for appellee.

Jose A. Rodriguez, pro se.

* * * * *

SINGER, J.

{¶ 1} This is an appeal from a judgment of the Wood County Court of Common Pleas which denied appellant, Jose Rodriguez’s, “request to (sic) public records for copying and reproduction, pursuant to R.C. 149.43.” For the reasons set forth below, this court affirms the judgment of the trial court.

{¶ 2} On January 29, 2008, a jury convicted appellant of trafficking in marijuana, a violation of R.C. 2925.03(A)(2) and (C)(3)(f). He was sentenced to eight years in prison. This court affirmed his conviction on August 21, 2009. *State v. Rodriguez*, 6th Dist. Wood No. WD-08-013, 2009-Ohio-4280.

{¶ 3} On July 21, 2010, appellant filed a motion requesting public records. Specifically, he sought recordings and videos related to the investigation which led to his arrest for drug trafficking. The trial court denied his request and this court affirmed that decision on March 25, 2011. *State v. Rodriguez*, 6th Dist. Wood No. WD-10-062, 2011-Ohio-1397.

{¶ 4} This instant appeal stems from appellant's second public records request which the trial court denied. He sets forth the following assignment of error:

The trial court abused its discretion when it failed to grant permission requested pursuant to R.C. § 149.43(B)(8), when it declined to make a finding that the information sought is necessary to support a justiciable claim, denying the request.

{¶ 5} R.C. 149.43(B)(8) provides:

A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the

subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person.

{¶ 6} This court stated in *Rodriguez, supra*:

The trial court found that Rodriguez did not demonstrate that the records sought were needed to support a justiciable claim. We agree. Appellant makes unsubstantiated claims that the state tampered with the trial evidence but he has not identified any pending proceeding to which the items he seeks would be material. As noted by the trial judge, the evidence against appellant in his case was overwhelming. A jury found him guilty beyond a reasonable doubt and he has had a direct appeal. Based on the foregoing, we find that the trial court did not err in finding that appellant did not satisfy the requirements of R.C. 149.43(B)(8). *Id.* at ¶ 10.

{¶ 7} In this, his second appeal regarding a public records request, appellant has raised nothing new or anything which was not already considered in his prior appeal. As such, his claims are barred by the doctrine of res judicata and his sole assignment of error is found not well-taken.

{¶ 8} On consideration whereof, the judgment of the Wood County Court of Common Pleas is affirmed. Costs of this appeal are assessed to appellant 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.

Arlene Singer, J.

JUDGE

Thomas J. Osowik, J.

JUDGE

James D. Jensen, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.