

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

State of Ohio

Court of Appeals No. L-17-1208

Appellee

Trial Court No. CR0198105095

v.

Jessie James White

DECISION AND JUDGMENT

Appellant

Decided: March 9, 2018

* * * * *

Julia R. Bates, Lucas County Prosecuting Attorney, and
Evy M. Jarrett, Assistant Prosecuting Attorney, for appellee.

Jessie James White, pro se.

* * * * *

OSOWIK, J.

{¶ 1} This is an accelerated appeal from a July 18, 2017 judgment of the Lucas County Court of Common Pleas, denying appellant’s motion for a new sentencing hearing in connection to appellant’s 1981 aggravated murder conviction. For the reasons set forth below, this court affirms the judgment of the trial court.

{¶ 2} Pro se appellant, Jessie James White, sets forth the following two assignments of error:

First Assignment of Error

THE TRIAL COURT COMMITTED ERROR WHEN IT FOUND THAT A DOCKET SHEET CAN CONSTITUTE A JOURNAL ENTRY.

Second Assignment of Error

THE TRIAL COURT COMMITTED ERROR WHEN IT FAILED TO HOLD A HEARING TO MAKE A DETERMINATION REGARDING WHICH DOCUMENT QUALIFIES AS THE JOURNAL ENTRY.

{¶ 3} The following undisputed facts are relevant to this appeal. On April 3, 1981, appellant was convicted of aggravated murder, in violation of R.C. 2903.01, a felony of the first degree. Appellant was sentenced to a term of incarceration of life imprisonment.

{¶ 4} Subsequently, appellant's conviction and sentence was affirmed on direct appeal. *State v. White*, 6th Dist. Lucas No. L-81-100, 1981 Ohio App. LEXIS 11826 (Dec. 4, 1981). In addition, appellant filed a motion for post-conviction relief. The motion was denied and the denial was likewise affirmed. *State v. White*, 6th Dist. Lucas No. L-84-285, 1985 Ohio App. LEXIS 7614 (May 3, 1985).

{¶ 5} Approximately 35 years after appellant's conviction, appellant filed a motion for a new sentencing hearing premised upon the mistaken notion that the original trial court docket entry memorializing appellant's conviction and sentence does not constitute a proper judgment entry in this matter.

{¶ 6} On July 18, 2017, the trial court denied appellant’s motion for a new sentencing hearing. The trial court held in relevant part, “What defendant fails to appreciate is at the time of this entry, the Lucas County Court of Common Pleas recorded its judgment entries directly in the Journal of the case, thus these docket entries constituted the journal of the court. This entry is fully compliant with Crim. R. 32(C).” This appeal ensued.

{¶ 7} In the first assignment of error, appellant maintains that the trial court erred in finding the April 3, 1981 trial court docket entry constituted the underlying journal entry. We do not concur.

{¶ 8} Notably, the version of Crim.R. 32 in effect on April 3, 1981, the timeframe relevant to this matter, established in relevant part, “A judgment of conviction shall set forth the plea, the verdict or findings and sentence * * * the judgment shall be signed by the judge and entered by the clerk.”

{¶ 9} Consistently, the record of evidence in this matter reflects that the April 3, 1981 docket entry of the trial court memorializing this matter set forth in relevant part, “[A] verdict finding the defendant [G]uilty of [A]ggravated [M]urder * * * It is the sentence of the court that the defendant be committed to the Ohio Department of Rehabilitation and Correction * * * [F]or the period of the remainder of defendant’s natural life.” The record further reflects that this docket entry was executed by Judge Peter M. Handwork, the trial court judge in this case.

{¶ 10} The record reflects that appellant availed himself both of a direct appeal and a motion for post-conviction relief. As such, suggestions that Crim.R. 32 was not properly complied with in this matter are without merit.

{¶ 11} Based upon the foregoing, we find that the subject April 3, 1981 trial court docket journal entry was not improper, complied with Crim.R. 32, and did not prejudice appellant. Wherefore, we find appellant's first assignment of error not well-taken.

{¶ 12} In appellant's second assignment of error, appellant maintains that the trial court erred in not holding a hearing in the process of making a determination on the propriety of the underlying docket journal entry. We do not concur.

{¶ 13} We note that the veracity of appellant's second assignment of error is contingent upon a favorable finding by this court in response to appellant's first assignment of error. In order to arguably warrant a hearing, appellant must first have demonstrated a Crim.R. 32 defect of some sort. Subsequent to showing a Crim.R. 32 defect, it would next have to be ascertained whether the defect shown was of the sort which would have necessitated a hearing in order to correct.

{¶ 14} Given that this court determined above that the underlying docket journal entry was not in breach of Crim.R. 32, appellant's second assignment of error is found to be moot and not well-taken.

{¶ 15} On consideration whereof, the judgment of the Lucas County Court of Common Pleas is hereby affirmed. We find that substantial justice has been done in this matter. 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.

Thomas J. Osowik, J.

JUDGE

James D. Jensen, J.

JUDGE

Christine E. Mayle, P.J.
CONCUR.

JUDGE