

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

State of Ohio

Court of Appeals No. L-04-1004

Appellee

Trial Court No. CR-98-2780

v.

James R. Kajfasz

DECISION AND JUDGMENT ENTRY

Appellant

Decided: September 30, 2004

* * * * *

Julia R. Bates, Lucas County Prosecuting Attorney, and
Eric A. Baum, Assistant Prosecuting Attorney, for appellee.

James R. Kajfasz, pro se.

* * * * *

SINGER, J.

{¶ 1} This is an accelerated appeal from a judgment by the Lucas Country Court of Common Pleas, denying a pro se motion to withdraw a plea of no-contest.

{¶ 2} In 1998, appellant, James R. Kajfasz, pled guilty to three charges of forgery and was sentenced to 55 months in jail. In 1999, appellant entered a no-contest plea to charges of failure to appear, was found guilty, and was sentenced to an additional 24 months.

{¶ 3} Following his convictions, appellant filed pro se an unsuccessful direct appeal. *State v. Kajfasz* (Jan. 26, 2001), 6th Dist. No. L-99-1116, appeal denied (2001), 93 Ohio St.3d 1447.

{¶ 4} Appellant then filed an unsuccessful application with this court to reopen his appeal and vacate his conviction. Thereafter, appellant filed a motion to withdraw his plea of no contest, alleging that his indictment was procedurally defective. When the trial court denied the motion, this appeal followed.

{¶ 5} In two assignments of error, appellant maintains that the trial court erred in denying his motion to withdraw his plea of no-contest.

{¶ 6} The trial court denied appellant's motion to withdraw his plea citing res judicata. The doctrine of res judicata bars any attempt to raise an issue in a subsequent motion that could have been raised on direct appeal and was not. *State v. Szefcyk* (1996), 77 Ohio St.3d 93, 95. This includes motions to withdraw pleas pursuant to Crim.R. 32.1. See *State v. Jefferies* (July 30, 1999), 6th Dist. No. L-98-1316.

{¶ 7} Appellant failed to raise the issue of a defective indictment in his direct appeal. Appellant could have raised the issue either pro se or, had he properly requested appointed counsel, through an attorney. Pursuant to the doctrine of res judicata, appellant's failure to raise this issue in his direct appeal bars him from raising it in all subsequent claims, including the present claim. Consequently, the trial court did not err in denying appellant's motion.

{¶ 8} Accordingly, appellant's assignments of error are not well-taken.

{¶ 9} On consideration whereof, the judgment of the Lucas County Court of Common Pleas is affirmed. Pursuant to App.R. 24, court costs to appellant.

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, amended 1/1/98.

Peter M. Handwork, P.J.

JUDGE

Mark L. Pietrykowski, J.

JUDGE

Arlene Singer, J.
CONCUR.

JUDGE