

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

State of Ohio

Court of Appeals No. WD-11-036

Appellee

Trial Court No. 2008CR0406

v.

Charles A. Buder

DECISION AND JUDGMENT

Appellant

Decided: February 3, 2012

* * * * *

Charles A. Buder, pro se.

* * * * *

HANDWORK, J.

{¶1} This appeal is from the May 4, 2011 judgment of the Wood County Court of Common Pleas, which denied the motion of appellant, Charles A. Buder, for a transcript of his trial at public expense. While appellant’s brief does not set forth assignments of error as required by App.R. 16, we can determine that he argues on appeal that the trial court’s decision was contrary to law. Upon consideration of this sole assignment of error, we affirm the decision of the lower court.

{¶2} Appellant was convicted and sentenced in April 2009, after the court accepted appellant's guilty plea. He did not file a direct appeal from his conviction and has not filed with this court a motion for leave to file a delayed appeal.

{¶3} In April 2011, appellant moved in the trial court for a copy of the trial record, including discovery, presentence investigation, and transcripts, at public expense, and attached an affidavit of indigency. The court denied the motion and appellant sought a timely appeal from that decision. Afterward, appellant again filed a motion in the trial court to direct the clerk to file a transcript at public expense and to send him a copy.

{¶4} Upon a review of the facts of this case, we find that the trial court did not err in denying appellant's motion. An indigent defendant's right to a transcript to be prepared at public expense arises only if he has a right to a direct appeal, has been granted leave to file a delayed appeal, or has sought postconviction relief. *State ex rel. Partee v. McMahan*, 175 Ohio St. 243, 248, 193 N.E.2d 266 (1963). Since the time for direct appeal has already run and appellant has not sought leave to file a delayed appeal or filed a postconviction relief petition, he is not entitled to a free transcript. Appellant's sole assignment of error is found not well-taken.

{¶5} Having found that the trial court did not commit error prejudicial to appellant, the judgment of the Wood County Court of Common Pleas is affirmed. Appellant is ordered to pay the court 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.

Peter M. Handwork, J.

JUDGE

Arlene Singer, P.J.

JUDGE

Stephen A. Yarbrough, 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>.