

OHIO COURT OF APPEALS, FIFTH APPELLATE DISTRICT, STARK
COUNTY

State v. Battigaglia

2021-Ohio-1651 (Ohio Ct. App. 2021) · No. 2020 CA 00144 · Decided May 12, 2021

SUMMARY

The Fifth District Court of Appeals of Ohio affirmed the Canton Municipal Court's denial of Romero Battigaglia's motion to vacate a 2009 judgment. The court held that any alleged errors concerning counsel, plea acceptance, or double jeopardy rendered the judgment voidable rather than void and could not be challenged through a post-conviction motion filed more than ten years later.

CASE DETAILS

COURT	Ohio Court of Appeals, Fifth Appellate District, Stark County
WRITING FOR THE COURT	John W. Wise, J.; W. Scott Gwin, P.J.; Earle E. Wise, Jr., J.
JURISDICTION	Ohio
DECIDED	May 12, 2021
DOCKET	2020 CA 00144
DISPOSITION	affirmed
PROCEDURAL POSTURE	Romero Battigaglia appealed the Canton Municipal Court's denial of his motion to vacate a void judgment based on alleged violations of the right to counsel and the Double Jeopardy Clause.
STANDARD OF REVIEW	De novo review applies to the denial of a motion to dismiss on double-jeopardy grounds. The court applied the void-versus-voidable sentence framework to the post-conviction motion.
PRECEDENTIAL VALUE	published
PARTIES	Romero Battigaglia v. State of Ohio

TOPICS

- post-conviction relief
- double jeopardy
- right to counsel
- criminal procedure
- appellate procedure

PRACTICE AREAS

- criminal procedure
- post-conviction relief
- appellate procedure
- constitutional law

QUESTIONS PRESENTED

1. Whether alleged errors in the acceptance of Battigaglia's no-contest plea, including the claimed denial of counsel, rendered the judgment void and subject to correction through a post-conviction motion.
2. Whether the prosecution violated the Double Jeopardy Clause.
3. Whether the trial court abused its discretion by denying the motion to vacate and by not ordering transcripts.

HOLDINGS

1. When the trial court has subject-matter and personal jurisdiction, errors in exercising that jurisdiction render a sentence voidable rather than void. A defendant may not challenge such a voidable sentence through a post-conviction motion, particularly after failing to raise the alleged error on direct appeal.
2. The court affirmed the denial of the motion because Battigaglia's double-jeopardy argument, like his other alleged plea-related errors, was raised through an improper post-conviction motion challenging a voidable judgment rather than through a timely direct appeal.

KEY QUOTATIONS

“A judgment or sentence is void only if it is rendered by a court that lacks subject-matter jurisdiction over the case or personal jurisdiction over the defendant. If the court has jurisdiction over the case and the person, any sentence based on an error in the court’s exercise of that jurisdiction is voidable.” (§19)

“Because any alleged error in the manner in which the trial court accepted Appellant’s plea of no contest rendered the sentence voidable, Appellant’s attempt to correct the error in a post-conviction motion is improper.” (§21)

FACTUAL BACKGROUND

Battigaglia was charged in Canton Municipal Court with OVI, driving under suspension or violation of a license restriction, leaving the scene, failing to signal before changing course, and endangering children. At a 2009 pretrial hearing, he appeared with counsel and entered no-contest pleas to all counts; the court imposed concurrent jail terms, costs, and a fine. More than ten years later, he moved to vacate the judgment, claiming that he had been denied counsel and that the prosecution violated double jeopardy.

PROCEDURAL HISTORY

In 2009, Battigaglia entered a no-contest plea in Canton Municipal Court to several traffic and criminal charges and received concurrent jail sentences and costs. He did not take a direct appeal. In September 2020, he moved to vacate the judgment, asserting double jeopardy and denial of appointed counsel; the trial court denied the motion. The Fifth District affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Anderson, 148 Ohio St.3d 74, 2016-Ohio-5791, 68 N.E.3d 790, ¶20
- State v. Henderson, 161 Ohio St.3d 285, 2020-Ohio-4784, 162 N.E.3d 776, ¶43
- State v. Tate, 5th Dist. Richland No. 2019CA119, 2020-Ohio-4980

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