

OHIO COURT OF APPEALS, SIXTH APPELLATE DISTRICT

State v. Peck

2020-Ohio-5444 (Ohio Ct. App. 2020) · No. S-20-008 · Decided November 25, 2020

SUMMARY

The Sixth District Court of Appeals of Ohio affirmed the denial of Kyle L. Peck’s pro se motion to compel specific performance of a plea agreement. The court held that the plea agreement did not constitute a joint sentencing agreement and that Peck’s claims concerning the agreement and alleged breach were barred by res judicata because they could have been raised on direct appeal.

CASE DETAILS

COURT	Ohio Court of Appeals, Sixth Appellate District
WRITING FOR THE COURT	Arlene Singer; Mark L. Pietrykowski; Thomas J. Osowik
JURISDICTION	Ohio
DECIDED	November 25, 2020
DOCKET	S-20-008
DISPOSITION	affirmed
PROCEDURAL POSTURE	Peck appealed pro se from the denial of his motion to compel specific performance of a plea agreement.
PRECEDENTIAL VALUE	published
PARTIES	Kyle L. Peck v. State of Ohio

TOPICS

- plea bargaining
- post-conviction relief
- criminal procedure
- appellate procedure
- preservation of error

PRACTICE AREAS

- criminal procedure
- plea bargaining
- appellate procedure
- post-conviction relief

QUESTIONS PRESENTED

- Whether the plea agreement was a joint sentencing agreement that required the trial court to impose a particular term of imprisonment.
- Whether Peck's claims that the prosecution breached the plea agreement and that the agreement was vague or ambiguous were barred by res judicata because they could have been raised on direct appeal.

HOLDINGS

1. The agreement was not a joint sentencing agreement. A plea agreement negotiates the plea, not the sentence, which is determined by statute and may require the trial court to exercise discretion.
2. Peck's claims concerning the alleged violation or meaning of the plea agreement were barred by res judicata because the plea agreement was part of the record and the claims could have been raised on direct appeal.

KEY QUOTATIONS

“A plea agreement is a negotiation of the plea, not the sentence, which is a matter to be determined by statute and may require an exercise of the trial court’s discretion.” (§ 6)

“Therefore, the issues raised in appellant’s motion to compel specific performance of the plea agreement are now barred under the doctrine of res judicata.” (§ 6)

FACTUAL BACKGROUND

Peck entered a written plea agreement under which he pleaded guilty to two second-degree felony aggravated-trafficking counts and acknowledged that each count carried a mandatory prison term of two to eight years. Although the State agreed to recommend three to four years, the prosecutor and defense counsel clarified during the plea hearing that the two-year minimum was mandatory. The trial court imposed concurrent mandatory four-year terms, which were affirmed on direct appeal. Peck later claimed that the agreement promised a two-year mandatory term and sought specific performance or withdrawal of his plea.

PROCEDURAL HISTORY

Peck pleaded guilty pursuant to an agreement to two second-degree felony aggravated-trafficking counts. The trial court imposed concurrent mandatory four-year terms, and the sentence was affirmed on direct appeal. Peck later moved to compel specific performance of the plea agreement, asserting that the agreement required a lesser mandatory term and that the prosecution breached the agreement; the trial court denied the motion, and the Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Peck, 6th Dist. Sandusky No. S-17-031, 2018-Ohio-3406, ¶¶ 14-17
- State v. Peck, 154 Ohio St. 3d 1442, 2018-Ohio-4962, 113 N.E.3d 551
- State v. Bagner, Jr., 6th Dist. Lucas No. L-19-1158 (Oct. 30, 2020)
- State v. Davis, 119 Ohio St. 3d 422, 2008-Ohio-4608, 894 N.E.2d 1221, ¶ 6