

SUPREME COURT OF OHIO

State ex rel. Dawson v. Summit Cty. Court of Common Pleas

State ex rel. Dawson v. Summit Cty. Court of Common Pleas (Slip Opinion), 2016 Ohio 1597 (Ohio 2016) · No. 2015-0846 · Decided April 21, 2016

SUMMARY

The Supreme Court of Ohio affirmed dismissal of Larry D. Dawson’s petition for writs of mandamus and procedendo seeking resentencing and a final judgment of conviction. The court held that res judicata barred the claims because the finality of Dawson’s sentencing entry had already been addressed in an earlier appeal.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Pfeifer; O'Donnell; Lanzinger; Kennedy; French; O'Neill
JURISDICTION	Ohio
DECIDED	April 21, 2016
DOCKET	2015-0846
DISPOSITION	affirmed
PROCEDURAL POSTURE	Dawson appealed the Ninth District Court of Appeals' dismissal of his petition for writs of mandamus and procedendo seeking resentencing and issuance of a final judgment of conviction and sentence.
STANDARD OF REVIEW	A relator seeking mandamus or procedendo must establish a clear legal right to relief, a clear legal duty on the respondent to provide it, and the lack of an adequate remedy in the ordinary course of law. Mandamus entitlement must be shown by clear and convincing evidence.
PRECEDENTIAL VALUE	published
PARTIES	Larry D. Dawson v. Summit County Court of Common Pleas, Judge Lynne S. Callahan

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QUESTIONS PRESENTED

1. Whether Dawson's petition for writs of mandamus and procedendo seeking resentencing and a new final judgment was barred by res judicata.
2. Whether Dawson established a clear legal right and a clear legal duty supporting issuance of either writ.

HOLDINGS

1. A final judgment of conviction bars a represented defendant from raising in a later proceeding any defense or claimed lack of due process that was raised or could have been raised on direct appeal; Dawson's challenge to the finality and validity of his sentencing entry was therefore res judicata.
2. Dawson was not entitled to either writ because he could not demonstrate a clear legal right to resentencing or issuance of a new final judgment, and the previously resolved issue was barred by res judicata.

KEY QUOTATIONS

*“Under the doctrine of res judicata, a final judgment of conviction bars a convicted defendant who was represented by counsel from raising and litigating in any proceeding except an appeal from that judgment, any defense or any claimed lack of due process that was raised or could have been raised by the defendant * * * on an appeal from that judgment.”* (¶ 8)

FACTUAL BACKGROUND

Dawson was convicted in 1991 of aggravated murder, felonious assault, discharging a firearm into a habitation, and drug abuse, with firearm and physical-harm specifications. In 2012 and 2014, he challenged the sentencing entry, claiming it did not address all charges and did not constitute a final judgment under Crim.R. 32(C) and Sup.R. 7(A). His 2013 appeal had already determined that the sentencing entry was final and appealable and that the physical-harm specification did not authorize an additional prison sentence.

PROCEDURAL HISTORY

Dawson was convicted in 1991, and his convictions were affirmed on direct appeal. After unsuccessful motions concerning the validity and finality of his sentencing entry, including a 2013 appeal rejecting his claim that the entry was not final and appealable, he filed another motion under Crim.R. 32(C) and Sup.R. 7(A). The trial court denied the motion, and the Ninth District dismissed his mandamus and procedendo petition as barred by res judicata. The Supreme Court of Ohio affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Dawson, 9th Dist. Summit No. 15483, 1992 WL 308549 (Oct. 21, 1992)
- State v. Dawson, 9th Dist. Summit No. 26500, 2013-Ohio-1767
- State ex rel. Sherrills v. Cuyahoga Cty. Court of Common Pleas, 72 Ohio St. 3d 461, 462, 650 N.E.2d 899 (1995)
- State ex rel. Crandall, Pheils & Wisniewski v. DeCessna, 73 Ohio St. 3d 180, 184, 652 N.E.2d 742 (1995)
- State ex rel. Waters v. Spaeth, 131 Ohio St. 3d 55, 2012-Ohio-69, 960 N.E.2d 452
- State v. Saxon, 109 Ohio St. 3d 176, 2006-Ohio-1245, 846 N.E.2d 824, ¶ 17
- State v. Perry, 10 Ohio St. 2d 175, 226 N.E.2d 104 (1967), paragraph nine of the syllabus

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