

OHIO COURT OF APPEALS, NINTH JUDICIAL DISTRICT

State v. Luster

2023-Ohio-4227 (Ohio Ct. App. 2023) · No. C.A. No. 30669 · Decided November 22, 2023

SUMMARY

The Ninth District Court of Appeals of Ohio affirmed the Summit County Court of Common Pleas judgment awarding Corey Lee Luster 191 days of jail-time credit. The court held that, because the sentencing-hearing transcript was not included in the appellate record, it had to presume the regularity of the trial court’s proceedings and could not review Luster’s claim concerning the terms of his negotiated plea and jail-time credit.

CASE DETAILS

COURT	Ohio Court of Appeals, Ninth Judicial District
WRITING FOR THE COURT	Jill Flagg Lanzinger; Hensal, P. J.; Carr, J.
JURISDICTION	Ohio
DECIDED	November 22, 2023
DOCKET	C.A. No. 30669
DISPOSITION	affirmed
PROCEDURAL POSTURE	Luster appealed from the Summit County Court of Common Pleas judgment awarding him a total of 191 days of jail-time credit after partially granting his motion for additional credit.
STANDARD OF REVIEW	When an appellant fails to provide a transcript necessary to resolve an assignment of error, the appellate court presumes the regularity and validity of the lower court's proceedings and affirms.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals decision
PARTIES	Corey Lee Luster v. State of Ohio

TOPICS

- appellate procedure
- criminal procedure
- sentencing
- preservation of error

PRACTICE AREAS

- Criminal law
- Appellate procedure
- Sentencing and jail-time credit

QUESTIONS PRESENTED

1. Whether the trial court erred by failing to award additional jail-time credit allegedly agreed upon by the parties during the negotiated plea and sentencing hearing when the sentencing transcript was not included in the appellate record.

HOLDINGS

1. When the transcript necessary to resolve an assigned error is omitted from the appellate record, the reviewing court must presume the validity and regularity of the lower court's proceedings and affirm.

KEY QUOTATIONS

“When portions of the transcript necessary for resolution of assigned errors are omitted from the record, the reviewing court has nothing to pass upon and thus, as to those assigned errors, the court has no choice but to presume the validity of the lower court’s proceedings, and affirm.” (¶ 6)

“Without a transcript of the sentencing hearing, this Court is unable to undertake a complete review of the sentencing hearing or the terms of the negotiated plea and jail-time credit.” (¶ 7)

FACTUAL BACKGROUND

Luster was incarcerated on convictions in four prior cases when he was indicted for three counts of aggravated trafficking in drugs. He pleaded guilty to amended second-degree felony charges and received an agreed aggregate prison term of six to seven years, to run concurrently with his prior sentences. The trial court initially awarded 77 days of jail-time credit and later awarded 114 additional days after partially granting Luster's motion. Luster claimed that the parties had orally agreed during sentencing to a greater amount of credit, but the sentencing transcript was absent from the appellate record.

PROCEDURAL HISTORY

Luster was indicted on drug-trafficking charges, later pleaded guilty to amended charges, and received an agreed concurrent prison sentence. The trial court initially awarded 77 days of jail-time credit. After Luster moved for additional credit, the court awarded 114 additional days, and Luster appealed, arguing that the parties had agreed to a greater amount during sentencing. The Court of Appeals affirmed because the sentencing transcript was not included in the appellate record.

DISPOSITION

affirmed

CASES CITED

- Knapp v. Edwards Laboratories, 61 Ohio St.2d 197, 199 (1980)
- Cook v. Bell, 9th Dist. Summit No. 25092, 2010-Ohio-3579, ¶ 10
- Lorson v. Lorson, 9th Dist. Summit No. 28601, 2017-Ohio-8562, ¶¶ 5-7
- State v. Lothes, 9th Dist. Medina Nos. 11CA0015-M, 11CA0016-M, 11CA0017-M, 2012-Ohio-1388, ¶ 7

- State v. Campbell, 9th Dist. Medina No. 10CA0120-M, 2011-Ohio-5433, ¶ 5

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