

[Cite as *State v. Senu-Oke*, 2013-Ohio-83.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio,	:	
	:	
Plaintiff-Appellee,	:	
	:	
v.	:	No. 12AP-658
	:	(C.P.C. No. 01CR 1785)
Casaviero Senu-Oke,	:	
	:	(REGULAR CALENDAR)
Defendant-Appellant.	:	

D E C I S I O N

Rendered on January 15, 2013

Ron O'Brien, Prosecuting Attorney, and *Kimberly M. Bond*,
for appellee.

Casaviero Senu-Oke, pro se.

APPEAL from the Franklin County Court of Common Pleas

TYACK, J.

{¶ 1} Casaviero Senu-Oke is appealing from the trial court's refusal to resentence him on charges for which he was convicted approximately ten years ago. He assigns two errors for our consideration:

[I.] THE TRIAL COURT ERRED WHEN IT DID NOT GRANT THE APPELLANT'S MOTION REQUESTING THE COURT TO ADDRESS THE FEDERAL CONSTITUTIONAL QUESTION OF WHETHER OR NOT THE APPLICATION OF THE BAD TIME PROVISION TO APPELATE'S [sic] SENTENCE VIOLATES THE CONSTITUTIONAL PROVISION FOR SEPARATION OF POWERS VIOLATIVE [OF] ARTICLE ONE SECTION TEN OF THE OHIO CONSTITUTION, AND THE FOURTH, FIFTH, SIXTH, AND THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

[II.] THE TRIAL COURT ERRED WHEN IT DID NOT GRANT THE APPELLANT'S MOTION REQUESTING THE COURT TO ADDRESS THE FEDERAL CONSTITUTIONAL QUESTION OF WHETHER OR NOT THE SENTENCE, AND THE RESENTENCING RESULTED IN A VOID SENTENCE, VIOLATIVE OF THE APPELLANT'S RIGHTS AS GUARANTEED [sic] TO HIM BY ARTICLE ONE, SECTION 10 OF THE OHIO CONSTITUTION, AND THE FOURTH, FIFTH, SIXTH, AND THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

{¶ 2} Senu-Oke pursued an appeal at the time of his original sentencing. That appeal resulted in one of the rape charges against him being overturned and a second sentencing proceeding.

{¶ 3} In 2005, Senu-Oke filed a petition for post-conviction relief which was denied because it was not filed timely. The denial was affirmed on a prior appeal to this court.

{¶ 4} In January 2012, Senu-Oke filed a motion supposedly in accord with Crim.R. 32.1, Withdrawal of Guilty Plea. Senu-Oke never entered a guilty plea. He was convicted as a result of a jury trial. In reality, he was trying once again to contest the sentences of incarceration he received as a result of his multiple convictions. The trial court correctly construed the "motion" as another petition for post-conviction relief and denied the petition as once again being untimely.

{¶ 5} The trial court correctly denied the motion/petition. Calling the motion a motion under Crim.R. 32.1 does not make it such a motion. The relief being sought by Senu-Oke is relief which cannot be sought via a motion to set aside a non-existent guilty plea.

{¶ 6} The trial court correctly found that Senu-Oke was pursuing an untimely petition for post-conviction relief.

{¶ 7} The two assignments of error are overruled.

{¶ 8} The judgment of the Franklin County Court of Common Pleas is affirmed.

Judgment affirmed.

SADLER and DORRIAN, JJ., concur.
