

STATEMENT OF THE CASE

Joseph H. Blackmer challenges the trial court's denial of his petition for permission to file a belated appeal.

We affirm.

ISSUE

Whether the trial court erred when it denied Blackmer's Petition for Permission to File a Belated Notice of Appeal.

FACTS

On June 9, 1982, Blackmer was charged with rape as a class A felony, criminal deviate conduct as a class A felony, and two counts of criminal confinement as a class B felony. He pleaded guilty but mentally ill pursuant to a written plea agreement before the Elkhart Superior Court on September 9, 1982, and was sentenced on October 21, 1982 to serve forty years for rape, forty years for criminal deviate conduct and ten years for criminal confinement, all of which was to be served consecutively.

Blackmer did not file a direct appeal. On February 3, 1983, he requested a copy of his guilty plea and a transcript of the sentencing hearing. The transcript was mailed to Blackmer on August 8, 1983. Between 1988 and 1997, Blackmer filed three unsuccessful motions for modification of sentence. On February 1, 2001, Blackmer filed a pro se petition for post-conviction relief, and declined assistance of counsel. In his petition, he alleged (1) ineffective assistance of trial counsel; (2) that his plea was not intelligently or voluntarily and knowingly made; (3) that he was compelled to testify against himself; and (4) that the trial court abused its discretion at the time of sentencing

and imposed an erroneous sentence. Blackmer's petition for post-conviction relief was summarily denied.

Blackmer appealed to a panel of this Court, and we remanded for an evidentiary hearing. The evidentiary hearing was conducted on September 20, 2001; thereafter, the post-conviction court denied relief on October 11, 2001. Blackmer again appealed to this court. On December 10, 2002, we affirmed the denial of post-conviction relief in an unpublished memorandum. *See Blackmer v. State*, No. 20A03-0104-PC-99, (Ind. Ct. App. December 10, 2002), *trans. denied*.

Blackmer's motion for rehearing was denied on February 6, 2002. Thereafter, on March 25, 2002, Blackmer filed a fourth motion for modification of sentence. The trial court denied his motion and advised Blackmer that it would deny any further requests for modification of sentence. Our supreme court denied transfer on April 30, 2003. Three years later, on April 28, 2006, Blackmer filed a Verified Petition for Leave to File Belated Notice of Appeal, which petition was denied. Blackmer now appeals.

DECISION

Blackmer argues that the trial court erred in denying his Verified Petition for Leave to File Belated Notice of Appeal. Specifically, he contends that neither the trial court nor his trial counsel advised him that he could file a direct appeal challenging the validity of his sentence. In his brief, he argues that he would not have "chosen to forego filing a direct appeal challenging the validity of being given enhanced and consecutive sentences if he had known he could file one." Blackmer's Br. 4.

In Blackmer's pro se petition for post-conviction relief, he alleged, among other things, that his ninety-year sentence was manifestly unreasonable. The trial court summarily denied the petition, and thereafter, Blackmer appealed to a panel of this court. We determined that Blackmer had not been provided a hearing on his claims and we remanded for an evidentiary hearing. The trial court then conducted an evidentiary hearing, after which it denied relief. Again, Blackmer appealed to this court, arguing that the trial court had abused its discretion in sentencing him and that his sentence was manifestly unreasonable. Citing the lengthy analysis of Blackmer's arguments undertaken by the trial court, we concluded that Blackmer had failed to establish that his sentence was erroneous.

Blackmer has had ample opportunity to challenge the validity of his sentence, and accordingly, we do not reach the merits of his claim. Res judicata precludes the repetitious litigation of claims, like Blackmer's, that have already been decided. *Wallace v. State*, 820 N.E.2d 1261, 1263 (Ind. 2005). The doctrine mandates that when an appellate court decides a legal issue, both the trial court and the court on appeal are bound by that determination in any subsequent appeal involving the same case and relatively similar facts. *Saunders v. State*, 794 N.E.2d 523, 526 (Ind. Ct. App. 2003). We have previously denied Blackmer's claims that the trial court abused its discretion in sentencing him and that his sentence is manifestly unreasonable. Because those claims are res judicata, the trial court did not err in denying Blackmer's petition to file a belated notice of appeal in order to challenge his sentence.

Affirmed.

KIRSCH, J., and MATHIAS, J., concur.