

[Cite as *State v. Frazier*, 2017-Ohio-8880.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 105469

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

LEONARDO FRAZIER

DEFENDANT-APPELLANT

JUDGMENT:
AFFIRMED

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-99-376539-ZA

BEFORE: Blackmon, J., E.T. Gallagher, P.J., and Boyle, J.

RELEASED AND JOURNALIZED: December 7, 2017

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PATRICIA ANN BLACKMON, J.:

{¶1} Leonardo Frazier (“Frazier”) appeals the trial court’s imposition of a three-year term of postrelease control at his resentencing hearing and assigns the following error for our review:

I. The trial court violated Crim.R. 32 and Appellant’s constitutional rights when there was an unnecessary delay in sentencing Appellant and in imposing post-release control.

{¶2} Having reviewed the record and pertinent law, we affirm the decision of the trial court. The apposite facts follow.

{¶3} On July 16, 1999, the court sentenced Frazier to 19 years in prison after a jury found him guilty of various felonies. At the time, the court did not impose postrelease control. On January 18, 2017, upon Frazier’s pro se motion for resentencing and the state’s motion to impose postrelease control, the court held a resentencing hearing and advised Frazier that he would be subject to three years mandatory postrelease control upon his release from prison. Frazier was still in prison at the time of the resentencing hearing.

{¶4} On appeal, Frazier argues that the imposition of postrelease control 18 years after his original sentence violates his constitutional rights and Crim.R. 32 because of the unnecessary delay. Frazier acknowledges the Ohio Supreme Court’s decision in *State v. Fischer*, 128 Ohio St.3d 92, 2010-Ohio-6238, 942 N.E.2d 332, which dictates that we affirm the case at hand, but argues that he appealed “to protect [his] rights and to ultimately preserve any further appeals and/or further litigation.”

{¶5} As this court has repeatedly held, “Crim.R. 32(A)’s requirement that a sentence be imposed without unnecessary delay does not apply to resentencing hearings.”

State v. Dowdell, 8th Dist. Cuyahoga No. 95630, 2011-Ohio-2922, ¶ 7. *See also Fischer* at ¶ 1 (“A sentence that does not include the statutorily mandated term of postrelease control is void, is not precluded from appellate review by principles of res judicata, and may be reviewed at any time, on direct appeal or by collateral attack”).

{¶6} In *Dowdell*, the defendant was sentenced to seven years in prison in 2003, but the court failed to address postrelease control. In 2010, the court resentenced the defendant, prior to his release from prison, to include a mandatory postrelease control term of five years. This court affirmed, citing *Fischer’s* holding that a “complete de novo resentencing is not required when a defendant prevails only as to the postrelease control aspect of a particular sentence * * * and the limited resentencing must cover only the postrelease control.” *Dowdell* at ¶ 8.

{¶7} Accordingly, the court did not err in imposing postrelease control at Frazier’s resentencing hearing, and his sole assigned error is overruled.

{¶8} Sentence affirmed.

It is ordered that appellee recover of appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate be sent to the Cuyahoga County Court of Common Pleas to carry this judgment into execution. The defendant’s conviction having

been affirmed, any bail pending appeal is terminated. Case remanded to the trial court for execution of sentence.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

PATRICIA ANN BLACKMON, JUDGE

EILEEN T. GALLAGHER, P.J., and
MARY J. BOYLE, J., CONCUR