[Cite as *State v. Holloman*, 2011-Ohio-6138.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio,	:	
Plaintiff-Appellee,	:	
		No. 11AP-454
v.	:	(C.P.C. No. 05CR-04-2675)
Martin L. Holloman,	:	(REGULAR CALENDAR)
Defendant-Appellant.	:	

D E C I S I O N

Rendered on November 29, 2011

Ron O'Brien, Prosecuting Attorney, and *Seth L. Gilbert*, for appellee.

Timothy Young, Ohio Public Defender, and *E. Kelly Mihocik*, for appellant.

APPEAL from the Franklin County Court of Common Pleas

KLATT, J.

{¶1} Defendant-appellant, Martin L. Holloman, appeals from a judgment of the Franklin County Court of Common Pleas denying his Motion to Vacate a Void Judgment and Termination of Post-Release Control Supervision. Because the trial court properly imposed post-release control, we affirm that judgment.

{¶2} In 2005, a Franklin County Grand Jury indicted appellant with one count of aggravated burglary in violation of R.C. 2911.11. A jury found him guilty of that charge

and, as a result, the trial court sentenced him to six years in prison. This court affirmed his conviction. *State v. Holloman*, 10th Dist. No. 06AP-01, 2007-Ohio-840.

{¶3} Upon his release from prison, appellant asked the trial court to terminate his post-release control. Appellant claimed that the trial court did not properly impose post-release control at his sentencing hearing or in the trial court's sentencing entry. The trial court denied appellant's request.

{¶4} Appellant appeals and assigns the following errors:

> ASSIGNMENT OF ERROR I: As Mr. Holloman was not properly advised of postrelease control during his sentencing hearing, and as he has been subsequently released from incarceration, postrelease control can no longer be validly imposed.
>
> ASSIGNMENT OF ERROR II: As Mr. Holloman was not properly advised of postrelease control in his sentencing entry, and as he has been subsequently released from incarceration, postrelease control may no longer be validly imposed.

{¶5} At the outset, we note that the state has challenged this court's exercise of jurisdiction over this appeal on the ground that appellant may not have timely filed his notice of appeal. Although the judgment entry at issue reflects two different time-stamps, our review of the record indicates that the judgment entry was filed on April 19, 2011. Because appellant filed his notice of appeal on May 18, 2011, his appeal is timely. Therefore, we have jurisdiction to hear the appeal.

{¶6} In connection with the state's jurisdictional challenge, appellant sought to supplement the record with the affidavit of Peggy Meckling, manager of the clerk's office for the Franklin County Court of Common Pleas, General Division. In her affidavit, Meckling offers a possible explanation for the two different time-stamps that appear on

the judgment entry. Because we have already determined that appellant timely filed his appeal, we deny appellant's motion to supplement the record with this affidavit.

Appellant's Assignments or Error – Notification of Post-Release Control

{¶7} Because appellant's assignments of error both deal with notification of post-release control, we address them together. A trial court must notify a defendant of post-release control, if applicable, at sentencing and in the court's sentencing judgment entry. *State v. Singleton*, 124 Ohio St.3d 173, 2009-Ohio-6434, ¶22. Appellant contends that both of these notifications were insufficient in his case. We disagree.

{¶8} Appellant was found guilty of a first-degree felony offense and sentenced to prison. Accordingly, the trial court had to notify him at sentencing of post-release control, specifically, that he "will be supervised under section 2967.28 of the Revised Code after [he] leaves prison." R.C. 2929.19(B)(2)(c). At appellant's sentencing hearing, the trial court notified appellant that "since I'm sentencing you to jail[,] you will be subject to post release control. Because it's a felony, agg one, there will be a five year period of control after the sentence time. If you viol[ate] the terms of your post release control you could get up to one-half your sentence in additional time." (Sentencing Hearing Tr. 20.) Appellant claims that this notification was insufficient because it failed to advise him that post-release control was mandatory. We disagree.

{¶9} The trial court did not say the word "mandatory" in its notification to appellant. However, there are no "magic words" that a trial court must use to properly impose post-release control. *State v. Williams*, 10th Dist. No. 10AP-922, 2011-Ohio-4923, ¶19. Here, the trial court twice used the word "will" to clearly convey the mandatory nature of appellant's five-year period of post-release control. In fact, the statute itself

uses the word "will" in discussing the trial court's notification. The trial court properly advised appellant at his sentencing that he was subject to mandatory post-release control for five years after his release. *State v. Bloomer*, 122 Ohio St.3d 200, 2009-Ohio-2462, ¶69 (trial court must notify offender of mandatory nature of post-release control as well as length of term).

{¶10} Pursuant to R.C. 2929.14(D)(1), the trial court was also obligated to include in its sentencing entry "a requirement that the offender be subject to a period of post-release control after the offender's release from imprisonment, in accordance with that division." Here, the trial court's judgment entry imposing appellant's sentence stated that "the Court notified the Defendant, orally and in writing, of the applicable periods of post-release control pursuant to R.C. 2929.19(B)(3)(c), (d) and (e)." Appellant claims that this advisement was insufficient because it did not advise him of the length of post-release control or the consequences of violating the terms of his post-release control. Again, we disagree.

{¶11} In similar post-release control notification cases, this court has concluded that post-release control may be properly imposed when the "applicable periods" language in the trial court's sentencing entry, such as in the present case, is combined with other written or oral notification of the imposition of post-release control. *State v. Townsend*, 10th Dist. No. 10AP-983, 2011-Ohio-5056, ¶7-14 (rejecting same argument and analyzing cases from this court that have considered notifications with sentencing entries that contain "applicable periods" language). We also reject appellant's argument that this line of case law is inapplicable because appellant did not plead guilty but was found guilty by a jury. We have upheld "applicable periods" language in the sentencing

entry regardless of whether the defendant entered a guilty plea or was convicted by a jury. Id.; *State v. Cunningham*, 10th Dist. No. 10AP-452, 2011-Ohio-2045, ¶18.

{¶12} Here, other written and oral notification exists in the record in addition to the sentencing entry's notification. The trial court notified appellant at sentencing that he would be subject to five years of post-release control and of the consequences for violating post-release control. Additionally, appellant also signed a form entitled "Notice (Prison Imposed)" on the day of his sentencing. That notice informed him that he will have a period of post-release control for five years after his release from prison. The notice also informed him of the possible consequences that would result from a violation of his post-release control. This was the same information that we found sufficient to properly impose post-release control in *Cunningham* ("applicable periods" language in entry combined with "Prison Imposed" notice and oral notification) and very similar to that in *Townsend* ("applicable periods" language in entry combined with "Prison Imposed" notice, proper oral notification, and other information).

{¶13} Because the trial court properly notified appellant of post-release control at his sentencing and in his sentencing entry, we overrule his two assignments of error. Accordingly, we affirm the judgment of the Franklin County Court of Common Pleas.

Motion to supplement record denied;
judgment affirmed.

BRYANT, P.J., and SADLER, J., concur.

_____