

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio,	:	
	:	
Plaintiff-Appellee,	:	
	:	
v.	:	No. 11AP-752
	:	(C.P.C. No. 04CR-05-3061)
Shawn Alexander,	:	
	:	(REGULAR CALENDAR)
Defendant-Appellant.	:	

D E C I S I O N

Rendered on March 15, 2012

Ron O'Brien, Prosecuting Attorney, and *Steven L. Taylor*, for
appellee.

Shawn Alexander, pro se.

APPEAL from the Franklin County Court of Common Pleas

TYACK, J.

{¶1} Shawn Alexander is appealing from the trial court's denial of his second motion requesting new sentencing proceedings. He assigns two errors for our consideration:

First Assignment of Error

The trial court erred when it allowed a void sentence to stand contrary to Ohio statutes and Ohio Supreme Court rulings violating Defendant's 6th and 14th Amendments to the U.S. Constitution as well as article I section 16 of the Ohio Constitution.

Second Assignment of Error

The trial court erred when it prematurely denied Defendant's motion for a de novo review before the court received and time stamped his timely reply to the prosecutions brief.

{¶2} Alexander entered a series of guilty pleas to felonies resulting in his being sentenced to 22 years of incarceration. His first appeal resulted in a remand to the trial court for it to address issues resulting from the Supreme Court of Ohio's decision in *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856.

{¶3} At a second sentencing hearing, the trial court again sentenced Alexander to 22 years of incarceration. At the sentencing hearing, Alexander was informed that he would be subject to a term of post-release control and that the period of post-release control would be as much as 5 years.

{¶4} Alexander appealed from the second sentencing proceeding and this court affirmed the judgment of the trial court in 2006.

{¶5} Almost three years later, Alexander sought to have his sentence declared void because the trial court told him his period of post-release control was as much as five years instead of exactly five years. The trial court overruled his motion and a panel of this court affirmed.

{¶6} Alexander attempted to litigate the exact same issue by filing a new motion for a de novo sentencing hearing. The trial court, realizing that this issue had already been addressed, summarily overruled the new motion.

{¶7} Nothing Alexander could file or did file in his reply in the context of his second motion could change the past history of this case. He has asked the courts to give him yet another sentencing hearing and the courts have said "no." The second assignment of error is overruled.

{¶8} The first assignment of error asserts that the sentence Alexander received for sexually abusing a small child is void. That assertion is wrong for a number of reasons.

{¶9} First and foremost, the courts have said it is wrong.

{¶10} Second, there is no guarantee that Alexander could conduct himself in accord with the law for five years if or when he is released from prison. If he violated post-release control, he would be returned to prison and his post-release control would end short of five years.

{¶11} The first assignment of error is overruled.

{¶12} Both assignments of error having been overruled, the judgment of the Franklin County Court of Common Pleas is affirmed.

Judgment affirmed.

KLATT and SADLER, JJ., concur.
