

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

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|-----------------------|---|--------------------------|
| State of Ohio, | : | |
| | : | |
| Plaintiff-Appellee, | : | |
| | : | No. 12AP-127 |
| v. | : | (C.P.C. No. 03CR-01-391) |
| | : | |
| Craig Anthony Morris, | : | (REGULAR CALENDAR) |
| | : | |
| Defendant-Appellant. | : | |

D E C I S I O N

Rendered on February 19, 2013

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

Yeura R. Venters, Public Defender, and *David L. Strait*, for appellant.

APPEAL from the Franklin County Court of Common Pleas

KLATT, P.J.

{¶ 1} Defendant-appellant, Craig Anthony Morris, appeals from a judgment entry entered by the Franklin County Court of Common Pleas. For the following reasons, we affirm that judgment.

I. Factual and Procedural Background

{¶ 2} In 2004, a jury found appellant guilty of four counts of felonious assault arising from a shooting outside a night club in Columbus, Ohio. The trial court sentenced him accordingly. This court affirmed appellant's convictions and sentences. *State v. Morris*, 10th Dist. No. 05AP-1139, 2009-Ohio-2396 ("*Morris I*").

{¶ 3} In 2009 and 2010, appellant requested the trial court to correct his allegedly improper sentence. Specifically, appellant alleged that the trial court failed to properly

notify him of the mandatory term of post-release control ("PRC"). The state agreed that the trial court's judgment entry did not so notify appellant and that the trial court should correct the deficiency. The parties disagreed, however, on the proper remedy: appellant sought a new sentencing hearing while the state argued that the court could only correct the sentence to properly impose PRC.

{¶ 4} On May 26, 2010, the trial court held a new sentencing hearing which appellant attended via videoconference. At that hearing, the trial court imposed the same total prison sentence as it did in 2004 and notified appellant that he was subject to a mandatory term of three years of PRC. In the trial court's May 27, 2010 judgment entry, the trial court also notified appellant that he was subject to a mandatory term of three years of PRC. Appellant appealed that judgment. This court originally reversed appellant's resentencing based on the state's concession that appellant was denied his right to counsel at the hearing. *State v. Morris*, 10th Dist. No. 10AP-512, 2011-Ohio-5484, ¶ 6-7 ("*Morris II*"). The state filed an application for reconsideration of that decision, noting that it withdrew its concession before this court's decision. We agreed and, on reconsideration, overruled appellant's assignments of error. *State v. Morris*, 10th Dist. No. 10AP-512, 2011-Ohio-2226 ("*Morris III*"). We also concluded, however, that the trial court's May 27, 2010 judgment entry improperly modified appellant's original 2004 sentence instead of just adding the necessary PRC language.¹ *Id.* at ¶ 23. Therefore, we remanded the matter to the trial court "with instructions to vacate the May 27, 2010 resentencing entry and issue a corrected entry that reinstates the sentence imposed on May 24, 2004, while adding the necessary PRC language." *Id.*

{¶ 5} On remand, the trial court did exactly what we asked: it vacated the May 27, 2010 sentencing entry, reinstated the original prison sentence imposed on May 24, 2004, and added the necessary PRC language to its sentencing entry.

{¶ 6} Appellant appeals and assigns the following error:

The trial court erred in imposing a sentence without a hearing and outside the presence of the defendant.

¹ Although the total prison term remained the same, the trial court did change certain aspects of the individual sentences.

II. Did the trial court have to hold a resentencing hearing?

{¶ 7} Appellant argues that the trial court, on remand, was required to conduct a sentencing hearing. We disagree.

{¶ 8} This court in *Morris III* made it clear what the trial court had to do on remand: vacate the May 27, 2010 resentencing entry and issue a corrected entry that reinstates the sentence imposed on May 24, 2004, while adding the necessary PRC language. *Id.* A hearing is not part of this mandate, and the trial court had no discretion to disregard our mandate or go beyond the scope of that mandate. *State ex rel. Smith v. O'Connor*, 71 Ohio St.3d 660, 662 (1995); *State ex rel. Sharif v. McDonnell*, 91 Ohio St.3d 46, 47 (2001). The "law of the case" doctrine required the trial court to accept and apply all legal rulings of this court in all subsequent proceedings. *Id.*; *Nolan v. Nolan*, 11 Ohio St.3d 1, 3 (1984). Thus, the trial court cannot be faulted for following the instructions of this court on remand.

{¶ 9} Moreover, the trial court properly notified appellant of his mandatory PRC term at the May 26, 2010 sentencing hearing. The only flaw left for the trial court to correct was the notification in its sentencing entry. A defendant is not entitled to a resentencing hearing under these circumstances anyway. *State v. Qualls*, 131 Ohio St.3d 499, 2012-Ohio-1111, ¶ 23-24, 30. We overrule appellant's assignment of error.

III. Conclusion

{¶ 10} Having overruled appellant's assignment of error, we affirm the judgment of the Franklin County Court of Common Pleas.

Judgment affirmed.

CONNOR and DORRIAN, JJ., concur.
