

**IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
ASHTABULA COUNTY, OHIO**

STATE OF OHIO,	:	O P I N I O N
Plaintiff-Appellee,	:	
- VS -	:	CASE NO. 2014-A-0075
NATHANIEL J. GREGA,	:	
Defendant-Appellant.	:	

Civil Appeal from the Ashtabula County Court of Common Pleas, Case No. 2012 CR 080.

Judgment: Appeal dismissed.

Nicholas A. Iarocci, Ashtabula County Prosecutor, and *Shelley M. Pratt*, Assistant Prosecutor, Ashtabula County Courthouse, 25 West Jefferson Street, Jefferson, OH 44047-1092 (For Plaintiff-Appellee).

Nathaniel J. Grega, pro se, PID: A631-140, Lake Erie Correctional Institution, P.O. Box 8000, 501 Thompson Road, Conneaut, OH 44030 (For Defendant-Appellant).

CYNTHIA WESTCOTT RICE, J.

{¶1} Appellant, Nathaniel Grega, appeals from the judgment of the Ashtabula County Court of Common Pleas denying his request for findings of fact and conclusions of law relating to a successive petition for post-conviction relief. We dismiss the appeal.

{¶2} Appellant was indicted on one count of robbery, in violation of R.C. 2911.02, a felony of the second degree, and one count of petty theft, in violation of R.C. 2913.02, a misdemeanor of the first degree. Appellant pleaded not guilty and a jury trial

commenced. Appellant was found guilty of both charges. He was sentenced to a three-year term of imprisonment for robbery and a six-month jail term for petty theft. The sentences were ordered to be served concurrently.

{¶3} Appellant appealed his conviction and, in *State v. Grega*, 11th Dist. Ashtabula No. 2012-A-36, 2013-Ohio-4094 (“*Grega I*”), this court affirmed in part, reversed in part, and remanded the matter for resentencing. This court concluded robbery and theft offenses should have been merged for sentencing. On remand, the trial court merged the two convictions and the state elected to proceed to sentencing on the robbery charge. The trial court again imposed a three-year term of imprisonment for the robbery conviction and gave appellant credit for time served.

{¶4} During the pendency of the foregoing appeal, appellant filed multiple pleadings seeking various forms of relief. Several of the pleadings were filed pursuant to R.C. 2953.21, Ohio's post-conviction relief statute. In a July 2013 judgment, the trial court determined it lacked jurisdiction to consider all of the pleadings due to appellant's pending appeal. The motions were consequently denied. Appellant appealed and, in *State v. Grega*, 11th Dist. Ashtabula No. 2013-A-0045, 2014-Ohio-1346 (“*Grega II*”), this court concluded the trial court erred in ruling it lacked jurisdiction. The matter was therefore reversed and remanded.

{¶5} The trial court subsequently resentenced appellant pursuant to this court's remand order in *Grega I*. Appellant appealed that judgment and, in *State v. Grega*, 11th Dist. Ashtabula No. 2014-A-0002, 2014-Ohio-5179 (“*Grega III*”), this court affirmed the trial court's judgment on sentence.

{¶6} Next, on remand from this court's judgment in *Grega II*, the trial court considered the merits of appellant's petition for postconviction relief and denied the same. Appellant appealed that judgment and, in *State v. Grega*, 11th Dist. Ashtabula No. 2014-A-0026, 2015-Ohio-945 ("*Grega IV*"), this court affirmed the judgment of the trial court.

{¶7} On June 23, 2014, appellant filed a successive petition for postconviction relief. On July 22, 2014, the trial court dismissed the petition without a hearing. Appellant appealed that judgment and, in *State v. Grega*, 11th Dist. Ashtabula No. 2014-A-0052, 2015-Ohio-946 ("*Grega V*"), this court affirmed the trial court's judgment.

{¶8} On August 29, 2014, appellant filed a request for findings of fact and conclusions of law relating to the July 22, 2014 judgment. On November 25, 2014, the trial court denied appellant's request. Appellant now appeals assigning the following error:

{¶9} "Trial court erred by not ruling on petitioner's post-conviction petition with findings of facts and conclusion of law." (Sic.)

{¶10} In *Grega V*, appellant assigned the identical assignment of error relating to the same, July 22, 2014 judgment entry, which dismissed his successive post-conviction petition without a hearing. Once an appeal has been timely perfected, a trial court loses jurisdiction except to act in aid of the appeal. See e.g. *State v. Jirousek*, 11th Dist. Geauga, 2014-G-3192, 2015-Ohio-949, ¶21. It is also well-established that, once an appeal is perfected, a trial court retains jurisdiction over issues "not inconsistent with the appellate court's jurisdiction to reverse, modify, or affirm the judgment appealed from." *In re S.J.*, 106 Ohio St.3d 11, 2005-Ohio-3215, ¶9.

{¶11} Because the judgment that formed the foundation of appellant's August 29, 2014 motion was on appeal to this court at the time it was filed, *and* the request appellant made in the motion would have affected this court's ability to reverse, modify, or affirm that judgment, the trial court lacked jurisdiction to consider the merits of the motion. We therefore conclude the November 25, 2014 judgment, which denied appellant's motion requesting findings of fact and conclusions of law was a nullity. Because there is no final order upon which this court might consider appellant's argument, there is nothing for this court to consider.

{¶12} For the foregoing reasons, the instant appeal is dismissed.

DIANE V. GRENDELL, J.,

THOMAS R. WRIGHT, J.,

concur.