

IN THE COURT OF APPEALS OF OHIO  
SIXTH APPELLATE DISTRICT  
LUCAS COUNTY

State of Ohio

Court of Appeals No. L-08-1448

Appellee

Trial Court No. CR2000-2848

v.

Christopher Wooten (aka Wootton)

**DECISION AND JUDGMENT**

Appellant

Decided: July 31, 2009

\* \* \* \* \*

Julia R. Bates, Lucas County Prosecuting Attorney, and  
Brenda J. Majdalani, Assistant Prosecuting Attorney, for appellee.

Christopher Wootton, pro se.

\* \* \* \* \*

OSOWIK, J.

{¶ 1} This is a pro se appeal from a judgment of the Lucas County Court of Common Pleas that denied appellant's "Motion for Sentencing." For the reasons that follow, the judgment of the trial court is affirmed.

{¶ 2} Appellant sets forth the following assignment of error:

{¶ 3} "Whether the trial court committed reversible error by advising appellant of his appellate rights, under O.R.C. § 2953.08 and post-release control under O.R.C. § 2929.19(B) and O.R.C. § 2967.28 by nunc pro tunc order in defendant's absence and therein attempting to supply omitted action in direct violation of the holding in *Norris v. Schotten*, 146 F.3d 314, at: 333-336 (6th Cir. 1998), quoting: *State v. Greulich*, \_\_\_ N.E. 2d \_\_\_ (citation omitted) thereby rendering the attempted sentence a nullity and void as a matter of law."

{¶ 4} The following undisputed facts are relevant to the issues raised on appeal. On October 27, 2000, appellant was indicted on one count of possession of cocaine in violation of R.C. 2925.11(A) and (C)(4)(f), with a major drug offender specification in violation of R.C. 2941.1410, and one count of preparation of cocaine for sale in violation of R.C. 2925.07(A) and (C)(4)(c). On January 29, 2001, appellant entered guilty pleas to both counts; the state requested that the major drug offender specification be nolle at the time of sentencing.

{¶ 5} On February 15, 2001, appellant was sentenced to eight years imprisonment as to the offense of possession of cocaine and 12 months as to the offense of preparation of cocaine for sale. The trial court ordered the sentences to be served concurrently.

{¶ 6} On September 26, 2006, the trial court filed a nunc pro tunc judgment entry which stated that it was for the purpose of correcting the sentencing entry to reflect that Wooten was given notice of his appellate rights and of his post-release control obligations. The relevant portion of the nunc pro tunc entry states: "Defendant given

notice of appellate rights under R.C. 2953.08 and post release control notice under R.C. 2929.19(B)(3) and R.C. 2967.28." As to the right to appeal and the matter of post-release control, the language in the original sentencing judgment entry stated: "Defendant has been given notice under R.C. 2929.19(B)(3) and of appellate rights under R.C. 2953.08."

{¶ 7} On November 14, 2008, appellant filed a "Motion for Sentencing." In support of his motion, appellant asserted that he was not properly informed of his post-release control obligations and that the trial court improperly issued the nunc pro tunc sentencing order. The trial court denied the motion and this appeal followed.

{¶ 8} On appeal, appellant again argues that the trial court failed to adequately notify him of his post-release control obligations and that the subsequent nunc pro tunc entry was invalid because it was issued in his absence, thereby rendering his sentence void.

{¶ 9} Contrary to appellant's first assertion, the record reflects that at his plea entry he was properly informed of his post-release control obligations. Appellant responded that he understood the trial court's explanation and that he wished to maintain his pleas of guilty. Thereafter, at the sentencing hearing, the trial court again addressed post-release control sanctions. The trial court had appellant read the "Notice Pursuant to R.C. 2929.19(B)(3)" acknowledging his understanding of his post-release control obligations. Appellant signed each page of the notice. The court then informed appellant that after serving his stated prison term, he would be placed on post-release control for five years, and informed appellant of the consequences of any violation.

{¶ 10} Based on the foregoing, appellant's argument that he was never informed of his post-release control obligations is without merit.

{¶ 11} Further, we find that the September 26, 2006 nunc pro tunc entry did not attempt to re-sentence appellant or "supply omitted actions."

{¶ 12} The "purpose of a nunc pro tunc order is to have the judgment of the court reflect its true action. The power to enter a judgment nunc pro tunc is restricted to placing upon the record evidence of judicial action which has actually been taken." *In the Matter of: Tyler C.*, 6th Dist.No. L-07-1159, 2008-Ohio-2207, ¶ 72, citing *McKay v. McKay* (1985), 24 Ohio App.3d 74, 75.

{¶ 13} The record clearly reflects that the trial court did, with specificity, notify appellant concerning post-release control requirements. As can be seen by the language set forth above from both sentencing entries, the September 26, 2006 nunc pro tunc entry reflects the court's true action, merely correcting a clerical entry by adding several words for the sake of clarification. This argument is without merit.

{¶ 14} Accordingly, based on the foregoing, appellant's sole assignment of error is not well-taken.

{¶ 15} On consideration whereof, the judgment of the Lucas County Court of Common Pleas is affirmed. Costs of this appeal are assessed to appellant pursuant to App.R. 24.

JUDGMENT AFFIRMED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4.

Peter M. Handwork, P.J.

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JUDGE

Mark L. Pietrykowski, J.

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JUDGE

Thomas J. Osowik, J.  
CONCUR.

\_\_\_\_\_  
JUDGE

<p>This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at: <a href="http://www.sconet.state.oh.us/rod/newpdf/?source=6">http://www.sconet.state.oh.us/rod/newpdf/?source=6</a>.</p>
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