

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

State of Ohio

Court of Appeals No. L-10-1337

Appellee

Trial Court No. CR0200502994

v.

Lawrence E. Thomas

DECISION AND JUDGMENT

Appellant

Decided: September 14, 2012

* * * * *

Julia R. Bates, Lucas County Prosecuting Attorney, and
Jeffrey D. Lingo, Assistant Prosecuting Attorney, for appellee.

Robert P. Soto, for appellant.

* * * * *

HANDWORK, J.

{¶ 1} This appeal is from the June 25, 2010 nunc pro tunc judgment of the Lucas County Court of Common Pleas, which corrected the September 21, 2006 judgment convicting and sentencing appellant, Lawrence E. Thomas. Upon due consideration, we

find that the judgment from which an appeal was taken is not a final, appealable order and hereby dismiss the appeal.

{¶ 2} In 2006, appellant was sentenced following his conviction of aggravated murder and aggravated burglary. He sought an appeal from the judgment of conviction and sentencing and this court affirmed the judgment on April 10, 2009. On October 13, 2009, appellant moved for resentencing on the grounds that the original judgment did not indicate the manner of conviction and, therefore, was not a final order pursuant to Crim.R. 32(C) and *State v. Baker*, 119 Ohio St.3d 197, 2008-Ohio-3330, ¶ 18. On June 25, 2010, the trial court entered a nunc pro tunc judgment entry correcting its prior judgment of conviction and sentencing to reflect the manner of conviction by jury. Appellant sought an appeal from the nunc pro tunc judgment.

{¶ 3} While this appeal was pending, the Ohio Supreme Court modified the *Baker* holding in *State v. Lester*, 130 Ohio St.3d 303, 2011-Ohio-5204, 958 N.E.2d 142, and held at the syllabus that:

1. A judgment of conviction is a final order subject to appeal under R.C. 2505.02 when it sets forth (1) the fact of the conviction, (2) the sentence, (3) the judge's signature, and (4) the time stamp indicating the entry upon the journal by the clerk.

2. A nunc pro tunc judgment entry issued for the sole purpose of complying with Crim.R. 32(C) to correct a clerical omission in a final

judgment entry is not a new final order from which a new appeal may be taken.

Therefore, the initial judgment of conviction and sentencing in this case was a final, appealable order when it was rendered even though it did not state the manner of conviction and the nunc pro tunc judgment merely corrected a clerical error and cannot be appealed as a new final judgment. *State v. Boles*, 6th Dist. No. L-11-1020, 2012-Ohio-385, ¶ 14.

{¶ 4} This case is ordered dismissed. Appellant is hereby ordered to pay the court costs incurred in connection with this appeal.

Appeal dismissed.

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, J.

JUDGE

Mark L. Pietrykowski, J.

JUDGE

Stephen A. Yarbrough, 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: http://www.sconet.state.oh.us/rod/newpdf/?source=6.</p>
