

[Cite as *State v. Atwater*, 2015-Ohio-2279.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 102259

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

JOSEPH ATWATER

DEFENDANT-APPELLANT

JUDGMENT:
REVERSED AND REMANDED

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-01-409121-ZA

BEFORE: S. Gallagher, J., Keough, P.J., and McCormack, J.

RELEASED AND JOURNALIZED: June 11, 2015

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SEAN C. GALLAGHER, J.:

{¶1} This cause came to be heard upon the accelerated calendar pursuant to App.R. 11.1 and Loc.R. 11.1.

{¶2} Defendant Joseph Atwater complains that the imposition of postrelease control at his 2001 sentencing was contrary to law. In furtherance of that claim, Atwater filed a motion to correct a void judgment with the trial court. The trial court summarily denied the motion, and Atwater's appeal followed. The matter was submitted on briefs, and the state conceded the error. We agree with the state's assessment. Pursuant to *State v. Fischer*, 128 Ohio St.3d 92, 2010-Ohio-6238, 942 N.E.2d 332, ¶ 28-29, and *State v. Freeman*, 8th Dist. Cuyahoga No. 99351, 2013-Ohio-3004, ¶ 9-11, the matter is remanded for a hearing limited to the imposition of postrelease control. We further instruct the trial court to correct the final sentencing entry.

{¶3} Judgment reversed and cause remanded to the lower court for further proceedings consistent with this opinion.

It is ordered that appellant recover from appellee costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

SEAN C. GALLAGHER, JUDGE

KATHLEEN ANN KEOUGH, P.J., and
TIM McCORMACK, J., CONCUR