

[Cite as *State v. Bonner*, 2015-Ohio-5152.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
No. 103027

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**STATE OF OHIO**

PLAINTIFF-APPELLEE

vs.

**CHRISTOPHER BONNER**

DEFENDANT-APPELLANT

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**JUDGMENT:**  
REVERSED AND REMANDED

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Criminal Appeal from the  
Cuyahoga County Court of Common Pleas  
Case No. CR-04-452793-A

**BEFORE:** Jones, P.J., Stewart, J., and Blackmon, J.

**RELEASED AND JOURNALIZED:** December 10, 2015

**FOR APPELLANT**

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**ATTORNEYS FOR APPELLEE**

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LARRY A. JONES, SR., P.J.:

{¶1} Defendant-appellant, Christopher Bonner, appeals the imposition of postrelease control. We reverse and remand.

{¶2} In 2004, Bonner pled guilty to four counts of rape, five counts of gross sexual imposition, eight counts of kidnapping, seven counts of importuning, and five counts of disseminating matter harmful to juveniles. The trial court sentenced Bonner to 11 years in prison, which is the sentence that the state and Bonner had agreed upon. The sentencing journal entry stated, in pertinent part: “Postrelease control is part of this prison sentence for the maximum period allowed for the above felony(s) under R.C. 2967.28.”

{¶3} In 2015, after he had completed his prison sentence, Bonner filed a motion to vacate postrelease control. The trial court denied his motion. Bonner filed this pro se appeal, raising one assignment of error, in which he argues that the trial court abused its discretion and committed plain error by denying his motion to vacate the void postrelease control portion of his sentence.

{¶4} The issue before us, whether a sentencing journal entry that states that a defendant is subject to postrelease control for “the maximum period allowed” is void, has already been decided in this court. *State v. Mace*, 8th Dist. Cuyahoga No. 100779, 2014-Ohio-5036, *appeal dismissed*, 141 Ohio St.3d 1450, 2015-Ohio-239, 23 N.E.2d 1193.

{¶5} In *Mace*, the en banc court addressed the intradistrict conflict of “whether a sentencing journal entry that states that the appellant is subject to postrelease control for the ‘maximum period allowed’ for that felony is void, even if the court informed the defendant at the sentencing hearing of the specific period of post-release control imposed.” *Id.* at ¶ 1. This court held that “such a judgment entry is void. Further, the entry cannot be corrected after the

appellant has completed service of his sentence.” *Id.* Thus, where, as here, a defendant has already served his or her prison term for the charges underlying the postrelease control, the trial court cannot take any action to reimpose postrelease control, correct any sentencing errors by resentencing, or correct its sentencing entry nunc pro tunc. *Id.*

{¶6} In *Mace*, as in this case, the appellant failed to provide this court with a copy of the transcript from the sentencing hearing. In *Mace*, the state urged, and likewise urges in this case, that we presume regularity; that is, that Bonner was advised at sentencing of the specific period of postrelease control. We rejected the state’s argument in *Mace* and we do so again in this case.

{¶7} The state also urges this court to follow the law of other Ohio appellate districts that conflict with our settled authority. *See, e.g., State v. Clark*, 2d Dist. Clark No. 2012 CA 16, 2013-Ohio-299 (sentencing entry that noted the term “consequences” in connection with R.C. 2967.28 was sufficient notice of the consequences for violation of postrelease control); *State v. Darks*, 10th Dist. Franklin No. 12AP-578, 2013-Ohio-176 (journal entry that included a reference to the sentencing statute, R.C. 2929.19(B)(3), was sufficient notice); *State v. Murray*, 2012-Ohio-4996, 979 N.E.2d 831 (6th Dist.) (journal entry’s reference to R.C. 2929.19(B)(3) and 2967.28 was sufficient to give the offender the required notice that the court authorized a postrelease control sanction). We decline to do so. Those cases were decided prior to our decision in *Mace*, and prior to the Ohio Supreme Court issuing a merit decision without opinion in *Mace*, stating that “[o]n review of order certifying a conflict, it is determined that no conflict exists. Cause dismissed.” *Mace*, 141 Ohio St.3d 1450, 2015-Ohio-239, 23 N.E.2d 1193.

{¶8} Therefore, *Mace* is the controlling authority on the issue now before us, and on that authority, we find that the trial court erred in denying Bonner’s motion to terminate his

postrelease control. Further, because Bonner has served his sentence in this case, he cannot be resentenced.

{¶9} The trial court erred in denying Bonner's motion to terminate postrelease control. Because postrelease control sanctions were not properly included in his sentencing entry and Bonner has served his prison term for the charges underlying the postrelease control, any attempt to impose postrelease control was void.

{¶10} Bonner's sole assignment of error is sustained.

{¶11} The judgment of the trial court is reversed and the case is remanded to the trial court with instructions to issue a journal entry that states that Bonner is not subject to postrelease control.

{¶12} Judgment reversed; case remanded.

It is ordered that appellant recover of appellee his 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.

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LARRY A. JONES, SR., PRESIDING JUDGE

MELODY J. STEWART, J., and  
PATRICIA ANN BLACKMON, J., CONCUR

