

[Cite as *State v. Alexander*, 2017-Ohio-5588.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 105431

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

KHYRI B. ALEXANDER

DEFENDANT-APPELLANT

**JUDGMENT:
AFFIRMED**

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-10-536692-B

BEFORE: Blackmon, J., Keough, A.J., and E.T. Gallagher, J.

RELEASED AND JOURNALIZED: June 29, 2017

FOR APPELLANT

Khyri Alexander, pro se
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ATTORNEYS FOR APPELLEE

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Cuyahoga County Prosecutor

By: Mary McGrath
Assistant County Prosecutor
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PATRICIA ANN BLACKMON, J.:

{¶1} Khyri Alexander (“Alexander”) appeals pro se from the trial court’s denial of his motion for review of the findings for correction of sentencing and assigns the following error for our review:

I. Trial court erred in denying to give appellant relief via correction of void sentence.

{¶2} Having reviewed the record and pertinent law, we affirm. The apposite facts follow.

{¶3} On June 28, 2010, Alexander pled guilty to abduction with three- and one-year firearm specifications; aggravated robbery with three- and one-year firearm specifications; assault; and having weapons while under disability [HWWUD]. The court sentenced Alexander as follows: “3 year gun spec to be served prior to and consecutive to all other counts; 1 year on count 1 [abduction] concurrent to all counts; 5 years on count 3 [aggravated robbery]; 1 year on count 7 [assault] to run concurrent with all counts; 1 year on count 15 [HWWUD] to run consecutive to all counts.” Alexander’s aggregate sentence is nine years in prison — six years on the underlying offenses and three years on the firearm specifications.

{¶4} Alexander did not file a direct appeal; however, on June 24, 2011 in the trial court, he filed a pro se “motion for review of the findings for correction of sentencing.” Although somewhat unclear, it appears Alexander argued in this motion

that it was error for the court to sentence him for both the three- and one-year firearm specifications. The court took no action on Alexander's motion for more than five years.

{¶5} On January 3, 2017, Alexander filed a pro se motion to proceed with judgment, requesting that the court rule on his June 24, 2011 motion. On January 23, 2017, Alexander filed a pro se "motion to vacate void 6/28/2010 order/entry pertaining to firearm specifications," again arguing that the court had no statutory authority to impose both a one-year and a three-year sentence for firearm specifications.

{¶6} On January 25, 2017, the court denied Alexander's June 24, 2011 "motion for review of the findings for correction of sentencing." On February 7, 2017, Alexander appealed pro se the court's January 25, 2017 journal entry. On February 13, 2017, the court denied Alexander's "motion for review of the findings for correction of sentencing" a second time.

{¶7} On appeal, Alexander states that "[t]here is no dispute on June 23, 2010, Mr. Alexander was sentenced on 1 count of abduction pursuant to R.C. 2905.02 with firearm specifications pursuant to R.C. 2941.141 (1 year) and R.C. 2941.145 (3 years)." Alexander further argues that this sentence is not statutorily permissible and thus void. Alexander did not file a transcript of his sentencing hearing; therefore, we must presume regularity in the proceedings below. *See, e.g., State v. Rodriguez*, 8th Dist. Cuyahoga No. 97025, 2012-Ohio-3352. *See also Kilroy v. B.H. Lakeshore Co.*, 111 Ohio App.3d 357, 363, 676 N.E.2d 171 (1996) (a pro se litigant "is presumed to have knowledge of

the law and of correct legal procedure and is held to the same standard as all other litigants”).

{¶8} Nonetheless, from the court’s June 28, 2010 sentencing journal entry, we can glean that Alexander was sentenced to three years in prison for the firearm specifications. Alexander was not sentenced to one year in prison, plus three years in prison, for firearm specifications as he claims.

{¶9} According to the sentencing journal entry, Alexander’s argument is based on a mistaken fact. The record does not support his assertion that the trial court issued a void sentence. Accordingly, we cannot say the court erred in denying Alexander’s “motion for review of the findings for correction of sentencing.” Alexander’s sole assigned error is overruled.

{¶10} Sentence affirmed.

It is ordered that appellee recover of appellant its costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate be sent to the Cuyahoga County Court of Common Pleas to carry this judgment into execution. Case remanded to the trial court for execution of sentence.

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

PATRICIA ANN BLACKMON, JUDGE

KATHLEEN ANN KEOUGH, A.J., and
EILEEN T. GALLAGHER, J., CONCUR