

STATE OF OHIO)
)ss:
COUNTY OF LORAIN)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

STATE OF OHIO

C.A. No. 08CA09379

Appellee

v.

MICHAEL LEWIS

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF LORAIN, OHIO
CASE No. 06CR070966

Appellant

DECISION AND JOURNAL ENTRY

Dated: July 6, 2009

BELFANCE, Judge.

{¶1} Defendant-Appellant Michael A. Lewis appeals issues related to his conviction in the Lorain County Court of Common Pleas. For reasons set forth below, we dismiss the appeal.

I.

{¶2} In 2006, a grand jury issued a twenty-three count indictment against Lewis which included five attendant major drug offender specifications. A subsequent entry by the trial court indicates that Lewis pled guilty to the “INDICTMENT MINUS MDO[,]” which we interpret to mean that Lewis pled guilty to all the charges in the indictment except for the major drug offender specifications. In October 2006, the trial court sentenced Lewis to a total of eleven years in prison, fined him \$10,000.00, and stated in its entry that Lewis was “notified about mandatory post release control obligation pursuant to law.” The trial court did not indicate the resolution of the specifications in its judgment entry and there is no entry on the docket indicating that they were dismissed.

{¶3} Lewis filed a motion for a delayed appeal, which we granted, and has raised two assignments of error.

II.

{¶4} Initially we note that the Ohio Constitution limits this Court's appellate jurisdiction to the review of final judgments or orders of lower courts. Section 3(B)(2), Article IV, Ohio Constitution. In criminal cases, the Supreme Court of Ohio has stated that "a judgment of conviction is a final appealable order under R.C. 2505.02 when it sets forth (1) the guilty plea, the jury verdict, or the finding of the court upon which the conviction is based; (2) the sentence; (3) the signature of the judge; and (4) entry on the journal by the clerk of court." *State v. Baker*, 119 Ohio St.3d 197, 2008-Ohio-3330, at ¶18. We have stated that "the failure of an entry to dispose of the court's ruling as to each prosecuted charge renders the order of the trial court merely interlocutory." *State v. Hayes* (May 24, 2000), 9th Dist. No. 99CA007416, at *1. This Court has also held that the requirements for a final appealable order apply to specifications attendant to convictions. *Id.*; see, also, *State v. Hamrick* (June 2, 1993), 5th Dist. No. CA-3675, at *1.

{¶5} In this case, the judgment entry does not indicate the resolution of the major drug offender specifications for which Lewis was charged in the indictment. Further, the docket provided to this Court on appeal does not contain an entry stating that the State dismissed the specifications, despite the fact that State has indicated in its brief that the specifications were dismissed. *Hamrick*, which this Court cited with approval in *Hayes*, "held that a journal entry that fails to reflect the disposition of a specification included in an indictment is not a final appealable order." *Hayes*, at *1. Thus, as the major drug offender specifications for which Lewis

was charged in the indictment remain outstanding, we lack a final appealable order and are required to dismiss this appeal.

III.

{¶6} In light of the foregoing, we dismiss the appeal as we lack jurisdiction to consider it.

Appeal dismissed.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(E). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

EVE V. BELFANCE
FOR THE COURT

MOORE, P. J.
WHITMORE, J.
CONCUR

APPEARANCES:

KREIG J. BRUSNAHAN, Attorney at Law, for Appellant.

DENNIS P. WILL, Prosecuting Attorney, and BILLIE JO BELCHER, Assistant Prosecuting Attorney, for Appellee.