

STATE OF OHIO)
)ss:
COUNTY OF SUMMIT)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

STATE OF OHIO

C. A. No. 25315

Appellee

v.

JOSEPH G. KRACKER

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF SUMMIT, OHIO
CASE No. CR 2007-05-1560(D)

Appellant

DECISION AND JOURNAL ENTRY

Dated: November 3, 2010

BELFANCE, Presiding Judge.

{¶1} Defendant-Appellant Joseph Kracker appeals from the denial of his motion for resentencing by the Summit County Court of Common Pleas. For reasons set forth below, we affirm.

I.

{¶2} In October 2007, following a jury trial, Mr. Kracker was found guilty of several felony drug offenses, including, among others, first-, second-, third- and fifth-degree felony manufacturing and possession offenses. The trial court imposed concurrent prison sentences for a total of six years. The trial court also imposed a five-year term of postrelease control, ordering that Mr. Kracker is “subject to post-release control of 5 years, as provided by law.”

{¶3} Following a direct appeal to this Court, *State v. Kracker*, 9th Dist. No. 23986, 2008-Ohio-4339, Mr. Kracker moved to be resentenced, arguing that his sentence was void

because of the improper postrelease control notification. The trial court denied the motion. Mr. Kracker has appealed, raising two assignments of error for our review.

II.

{¶4} In his first assignment of error, Mr. Kracker argues that because the trial court’s sentencing entry does not properly impose postrelease control, his sentence is void. Although the trial court’s imposition of postrelease control was erroneous, because he was sentenced after the effective date of R.C. 2929.191, his sentence is not void.

{¶5} In *State v. Singleton*, 124 Ohio St.3d 173, 2009-Ohio-6434, at ¶¶1, 27, the Supreme Court of Ohio held that for sentences imposed after July 11, 2006, the trial court’s failure to properly provide notification of postrelease control does not result in a void sentence. Instead, the trial court “may correct those sentences in accordance with the procedures set forth in [R.C. 2929.191(C)].” *Id.* at ¶35. Mr. Kracker was sentenced after July 11, 2006, so his sentence is not void, and the trial court did not err when it denied his motion for resentencing. The first assignment of error is overruled.

{¶6} In his second assignment of error, Mr. Kracker argues that the trial court erred by not imposing a term of postrelease control for each of his convictions, and, therefore, his sentence is void. Pursuant to R.C. 2967.28(F)(4)(c), when a trial court imposes sentences for multiple convictions, the trial court’s imposition of one term of postrelease control is proper. *Durain v. Sheldon*, 122 Ohio St.3d 582, 2009-Ohio-4082, at ¶1. Even though Mr. Kracker was convicted and sentenced on multiple offenses, the trial court was only required to impose one term of postrelease control. Accordingly, his sentence is not void, the trial court did not err when it denied his motion for resentencing, and the second assignment of error is overruled.

III.

{¶7} Mr. Kracker's assignments of error are overruled. The judgment of the Summit County Court of Common Pleas is affirmed.

Judgment affirmed.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Summit, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

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

CARR, J.
WHITMORE, J.
CONCUR

APPEARANCES:

JOSEPH G. KRACKER, pro se, Appellant.

SHERRI BEVAN WALSH, Prosecuting Attorney, and RICHARD S. KASAY, Assistant Prosecuting Attorney, for Appellee.