

STATE OF OHIO)
)ss:
COUNTY OF LORAIN)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

STATE OF OHIO

C.A. No. 09CA009663

Appellee

v.

MICHAEL TAYLOR

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF LORAIN, OHIO
CASE No. 06CR070891

Appellant

DECISION AND JOURNAL ENTRY

Dated: March 8, 2010

BELFANCE, Presiding Judge.

{¶1} Defendant-Appellant Michael Taylor appeals from the ruling of the Lorain County Court of Common Pleas which denied his motion to vacate and correct a void sentence. For reasons set forth below, we affirm.

I.

{¶2} In August 2006, a jury found Taylor guilty of several second- and third-degree felony offenses and the trial court sentenced him to serve nine years in prison. In June 2007, during the pendency of Taylor's direct appeal, the trial court issued a new, final, sentencing entry to comply with Crim.R. 32(C). We accepted Taylor's request to supplement the record with the entry and substituted it in place of the August 2006 entry. We affirmed his conviction. *State v. Taylor*, 9th Dist. No. 06CA009000, 2008-Ohio-1462.

{¶3} In August 2009, Taylor filed a motion to vacate and correct a void sentence. His motion referenced the 2006 journal entry as the void sentence he sought to vacate. The trial

court denied his motion. Taylor has appealed this ruling, raising one assignment of error for our review.

II.

{¶4} Taylor argues that the trial court erred in denying his motion to vacate and correct a void sentence as his sentence is void. We disagree.

{¶5} In his motion to vacate, Taylor asked the trial court to vacate its August 2006 sentencing entry, arguing that the entry contained an improper term of post-release control. Notwithstanding any error in post-release control, the 2006 entry was not final because it failed to include the plea, the jury verdict or the court's finding of guilt. See Crim.R. 32(C); *State v. Baker*, 119 Ohio St.3d 197, 2008-Ohio-3330, syllabus (“[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.”)

{¶6} In June 2007, the trial court journalized a new, final, sentencing entry which included all of the elements required by Crim.R. 32(C). During his direct appeal, this Court supplemented the record with the new 2007 sentencing entry. Thus, the trial court did not err in refusing to vacate the August 2006 non-final order as this was not Taylor's final sentencing entry.

{¶7} Nonetheless, even if Taylor had asked the trial court to vacate the June 2007 entry due to an error in post-release control, Taylor would not have been successful. Because he was sentenced after July 11, 2006, the trial court's improper post-release control notification does not result in a void sentence, although his sentence could be corrected as stated in *State v. Singleton*,

124 Ohio St.3d 173, 2009-Ohio-6434, at syllabus, ¶27. Because Taylor's sentence is not void, the trial court did not err in denying his motion to vacate and correct a void sentence.

III.

{¶8} In light of the foregoing, we affirm the judgment of the Lorain County Court of Common Pleas.

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 Lorain, 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.
MOORE, J.
CONCUR

APPEARANCES:

MICHAEL TAYLOR, pro se, Appellant.

DENNIS WILL, Prosecuting Attorney, and MARY R. SLANCZKA, Assistant Prosecuting Attorney, for Appellee.