

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
HIGHLAND COUNTY

STATE OF OHIO,	:	Case No. 25CA1
Plaintiff-Appellee,	:	
v.	:	<u>DECISION AND</u>
JONATHAN LEE HARRISON,	:	<u>JUDGMENT ENTRY</u>
Defendant-Appellant.	:	RELEASED 7/17/2025

APPEARANCES:

Jonathan L. Harrison, Lancaster, Ohio, pro se.

Anneka P. Collins, Highland County Prosecutor, Adam J. King, Highland County Assistant Prosecutor, Hillsboro, Ohio, for appellee.

Hess, J.

{¶1} Jonathan Lee Harrison appeals the trial court's denial of his motion to correct a sentencing error. He contends that the trial court abused its discretion when it denied his motion because it was meritorious. He also contends that his trial counsel was ineffective for not properly reviewing the plea agreement and sentencing entry. The State argues that the error on the sentencing entry was typographical in nature and the trial court correctly issued a nunc pro tunc entry correcting it. The State also argues that the ineffective assistance of counsel claim is barred by res judicata because Harrison could have raised it in a direct appeal but did not.

{¶2} For the reasons set forth below, we overrule Harrison's assignments of error and affirm the trial court's judgment.

I. FACTS AND PROCEDURAL HISTORY

{¶3} In June 2018, the Highland County grand jury indicted Harrison on one count of rape of a child under the age of ten in violation of R.C. 2907.02(A)(1)(b), a first-degree felony, and two counts of gross sexual imposition in violation of R.C. 2907.05(A)(4), third-degree felonies. Harrison entered into a plea agreement to plead guilty to the rape count and the parties jointly recommended a prison term of 15 years to life. The trial court imposed the recommended sentence and Harrison was designated as a Tier III sex offender. The sentencing entry incorrectly stated that the prison term was “a definite determinate term” when a prison term of 15 to life is an indefinite term. *See Black’s Law Dictionary* 1570 (10th Ed.2014) (an “indeterminate sentence,” also called an “indefinite sentence,” is a “sentence of an unspecified duration”).

{¶4} Harrison did not file an appeal.

{¶5} In December 2024, Harrison filed a motion to correct a sentencing error. He argued that because he was sentenced to an indefinite sentence of 15 years to life, but the sentencing entry described it as a definite determinate term, his sentence was contrary to law. He also argued that he suffered a violation of his Sixth Amendment right to counsel because his trial attorney should have reviewed the entry and detected the error. The trial court rejected his arguments. It found that Harrison was correctly sentenced to an indefinite sentence of 15 years to life and that the sentencing entry contained a typographical error. The trial court explained that a standard form sentencing entry was used and the term “definite determinate” was preprinted and should have been deleted. The trial court overruled Harrison’s motion and issued a nunc pro tunc entry correcting the error.

{¶6} Harrison appealed.

II. ASSIGNMENTS OF ERROR

{¶7} Harrison presents the following assignments of error:

- I. The trial court abused its discretion when it denied the Appellant's motion to correct when his claim had merit to it.
- II. Appointed trial court counsel was ineffective for not properly looking over appellant's plea agreement and sentencing entry.

III. LAW AND ANALYSIS

A. The Sentencing Entry

{¶8} Harrison argues that he was required to be sentenced to an indefinite sentence under the relevant sentencing statute, but the trial court labeled his 15-years to life indefinite sentence as a "definite" sentence in the sentencing entry. He contends his sentence must be reversed as contrary to law and his cause remanded for a new sentencing hearing.

{¶9} We find no merit to Harrison's argument. He was sentenced to a 15-years to life prison term, which is an indefinite sentence, not a definite sentence. *Black's Law Dictionary, supra*. A nunc pro tunc entry is the proper method to correct clerical mistakes in judgments that arise from oversight or omission. *State ex rel. DeWine v. Burge*, 2011-Ohio-235, ¶ 17. Here the trial court found that because a standard sentencing form was used, the term "a definite determinate" was preprinted on the form and should have been deleted. The nunc pro tunc entry deleted the "definite determinate" terminology from the sentencing entry. No other change was made.

{¶10} We note that the trial court's decision denying Harrison's motion contains a typographical error, which states in part:

The Court finds that the sentencing entry is erroneous, not the sentence. The Court did sentence the defendant to a term of fifteen years to life, *which is clearly a definite [sic] sentence* authorized by law. However, the sentencing entry that was used in this case is a standard form used by this court in all felony sentences of confinement. The “definite determinate” language was preprinted in the form and should have been deleted. (Emphasis added.)

The trial court’s decision should have read “which is clearly an indefinite sentence” rather than “which is clearly a definite sentence.” When read in context with the rest of the trial court’s decision and the correction made in the nunc pro tunc entry, it is an obvious typographical error. However, this typographical error has no impact on Harrison because the nunc pro tunc entry corrected the sentencing error and removed the reference to “definite determinate.” It is the nunc pro tunc sentencing entry that is relevant and applicable here, not the trial court’s decision addressing the motion. “If the journal entry and the judge’s opinion conflict, the journal entry controls. . . . The parties can appeal only errors in the judgment of the court, that is, the journal entry; they cannot appeal errors in the judge’s comments that are not a part of the judgment entry.” *Economy Fire & Cas. Co. v. Craft Gen. Contractors, Inc.*, 7 Ohio App.3d 335, 337 (10th Dist. 1982).

{¶11} We overrule Harrison’s first assignment of error.

B. Ineffective Assistance of Trial Counsel

{¶12} Next, Harrison argues that his trial counsel was ineffective for failing to properly review the plea agreement and sentencing entry. However, this ineffective assistance of trial counsel claim could have been raised in a direct appeal from the judgment of conviction and is barred by res judicata. *State v. Blanton*, 2022-Ohio-3985, ¶ 2 (when an ineffective assistance of counsel claim could have been litigated based on the trial record, res judicata applies and the postconviction claim is barred).

{¶13} We overrule Harrison's second assignment of error.

V. CONCLUSION

{¶14} Having overruled the assignments of error, we affirm the trial court's judgment.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the JUDGMENT IS AFFIRMED and that appellant shall pay the costs.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Highland County Court of Common Pleas to carry this judgment into execution.

IF A STAY OF EXECUTION OF SENTENCE AND RELEASE UPON BAIL HAS BEEN PREVIOUSLY GRANTED BY THE TRIAL COURT OR THIS COURT, it is temporarily continued for a period not to exceed 60 days upon the bail previously posted. The purpose of a continued stay is to allow appellant to file with the Supreme Court of Ohio an application for a stay during the pendency of proceedings in that court. If a stay is continued by this entry, it will terminate at the earlier of the expiration of the 60-day period, or the failure of the appellant to file a notice of appeal with the Supreme Court of Ohio in the 45-day appeal period pursuant to Rule II, Sec. 2 of the Rules of Practice of the Supreme Court of Ohio. Additionally, if the Supreme Court of Ohio dismisses the appeal prior to expiration of 60 days, the stay will terminate as of the date of such dismissal.

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

Abele, J. & Wilkin, J.: Concur in Judgment and Opinion.

For the Court

BY: _____
Michael D. Hess, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.