

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

State of Ohio,	:	
	:	
Plaintiff-Appellee	:	Case No. 24CA4096
	:	
v.	:	
	:	
Sashia M. Woods,	:	<u>DECISION AND</u>
	:	<u>JUDGMENT ENTRY</u>
	:	
Defendant-Appellant.	:	

---

APPEARANCES:

Steven H. Eckstein, Washington Court House, Ohio, for appellant.

Shane A. Tieman, Scioto County Prosecuting Attorney, and Matthew F. Loesch, Assistant Prosecuting Attorney, Portsmouth, Ohio, for appellee.

---

Smith, P.J.

{¶1} Appellant, Sashia Woods, appeals the judgment of the Scioto County Court of Common Pleas revoking her community control and reimposing a 36-month prison sentence. On appeal, appellant contends that the trial court lacked jurisdiction to reimpose the 36-month prison sentence based upon an allegation that her community control had expired. Because we find the arguments raised under her sole assignment contain some merit, at least in part, the assignment of error is sustained. Accordingly, the judgment of the trial court is reversed and this

matter must be remanded to the trial court for further proceedings consistent with this opinion.

### FACTS

{¶2} Appellant was initially convicted of third-degree felony aggravated possession of drugs on September 16, 2014. She was placed on community control for five years at that time. However, appellant's community control was revoked on April 1, 2015, and she was ordered to serve a 36-month prison sentence. Thereafter, appellant was granted judicial release on October 20, 2015, after a hearing held on October 16, 2015. At that time, she was placed on another five-year term of community control, stated to begin on October 16, 2015, and end on October 16, 2020.

{¶3} A notice of hearing was filed on June 16, 2020, indicating that a probable cause hearing would be scheduled followed by another document on June 19, 2020, titled "Probable Cause: Revocation of Supervision." The document alleged two violations as follows: 1) "Being arrested and charged with Possession of Cocaine, on or about 06/09/2020"; and 2) "Being out after curfew on or about 06/09/2020." A notice of hearing to revoke probation was filed on June 23, 2020, scheduling a hearing for July 8, 2020. Although it appears that this hearing was held, there is no hearing transcript in the appellate record and no other evidence of what took place at the hearing.

{¶4} Subsequently, on August 3, 2020, the State raised an issue related to appellant and a co-defendant having the same attorney as each other and having the same attorney for both the revocation proceedings and the newly filed charges related to the arrest for possession of cocaine. Although hearings on the pending probation revocation proceedings were scheduled on August 27, 2020, September 23, 2020, and October 8, 2020, none of these hearings appear to have been held and there is no explanation in the record related to why they were not held, other than the apparent discussions that were ongoing related to appellant's counsel's ability to represent her in both matters. Nothing else was filed in the case until December 17, 2020, at which time appellant filed a motion to stay the revocation proceedings pending resolution of the other criminal case. Appellant's motion to stay noted that her counsel had been disqualified from representing her in the new criminal matter, but that he would continue to represent her in the revocation proceedings. It does not appear that the trial court ever ruled on the request for a stay.

{¶5} Thereafter, the State filed an amended notice of probable cause on January 19, 2021, setting forth the same two violations contained in the prior notice and also adding a third violation for "Being charged with Felonious Assault (F2) on 01/17/2021." The State also filed a motion to revoke bond that same day. A notice of hearing was filed on January 20, 2021, setting the matter for a hearing

on January 21, 2021. It appears this hearing was held, but again, there is no transcript in the record indicating what transpired during the hearing. Although there is no hearing notice in the record, it appears that another hearing was scheduled for February 12, 2021. The State requested a continuance of that hearing due to the unavailability of a material witness, however, the trial court denied the request. It appears that this hearing was held because the court reporter filed a notice stating she had recorded the hearing. No transcript appears in the appellate record.

{¶6} Nothing happened in the case for over two years until the State filed another amended motion on March 15, 2023, alleging four violations. The first two violations were those contained in the June 19, 2020 notice. The violation alleged in the January 19, 2021 notice was omitted and, in its place, the following grounds were listed: 3) “On or about 12/09/21, pled guilty to Assault, M1 (21CR014A)”;

and 4) “On or about March 12, 2023, being charged with Obstructing Official Business, M2 (CRB2300322).” It does not appear this matter was scheduled for a hearing.

{¶7} Over a year later, on March 28, 2024, a hearing notice was scheduled setting the matter for a “probable cause” hearing on April 2, 2024. The State filed an amended probable cause motion the same day, setting forth a total of five violations as follows:

1. On March 20, 2024, being found guilty of Possession of Cocaine, F1 and Possession of Criminal Tools, F5 (20CR388B).
2. On or about 06/09/2020, being out after curfew.
3. On or about 12/09/2021, pled guilty to Assault, M1 (21CR014A).
4. On or about May 3, 2023, pled guilty to Obstructing Official Business, M2 (PMC Case No. CRB2300322).
5. On or about October 2, 2023, testing positive for Cocaine, lab confirmed.

On April 2, 2024, a notice of hearing was filed setting the matter for a hearing April 10, 2024. A transcript of this hearing is part of the appellate record. At the hearing, the trial court raised questions related to whether it still possessed jurisdiction to revoke community control due to the fact that the term had expired four years prior. As a result, the parties filed briefs related to the expiration of community control and tolling.

{¶8} A final hearing was held on August 22, 2024. The trial court stated that it found the timeline of the case “complicated and confusing,” but found that the notice of violation was properly served on appellant before her term of community control had expired and that it therefore had jurisdiction to sanction her despite the expiration.<sup>1</sup> The trial court issued a judgment entry on September 11,

---

<sup>1</sup> The trial court did not specify which notice of violation had been served prior to the expiration of community control.

2024, revoking appellant's community control and sentencing her to a 36-month prison term, with credit for time served, to be served consecutively to the sentence she was already serving. It is from this judgment that appellant now brings her timely appeal, setting forth a single assignment of error for our review.

#### ASSIGNMENT OF ERROR

I. APPELLANT CONTENDS THE TRIAL COURT LACKED JURISDICTION TO REIMPOSE THE 36-MONTH PRISON SENTENCE DUE TO HER ALLEGATION THAT HER SENTENCE HAD EXPIRED.

{¶9} In her sole assignment of error, appellant contends that the trial court lacked jurisdiction to reimpose the 36-month prison sentence based upon her allegation that her term of community control had expired. Appellant first argues that she could not lawfully be required to serve a five-year term of community control for her original sentence and then subsequently be ordered to serve another five-year term of community control following her judicial release. Appellant next argues that the trial court had no authority to conduct a probable cause/revocation hearing after the expiration of the stated time period of her community control.

{¶10} However, the State contends that appellant's arguments are "based upon an incomplete view and understanding of the language of both R.C. 2929.15 and R.C. 2929.20." It is the State's position that appellant was lawfully ordered to serve a five-year term of community control under R.C. 2929.15(A)(1) when she

was initially sentenced as well as five-year term of community control under R.C. 2929.20(K) after being granted judicial release. The State further contends that the trial court had jurisdiction to conduct the revocation hearing under two different grounds. The State first argues that appellant's community control had not expired but rather had been tolled by the filing of a complaint alleging a violation. The State alternatively argues that the trial court had jurisdiction to conduct revocation proceedings after the expiration of the community control term because the notice of violation and revocation proceedings were commenced prior to the expiration of appellant's term of community control.

### Legal Analysis

#### Threshold Issue: Jurisdiction v. Authority

{¶11} We initially address appellant's contention that the trial court lacked jurisdiction to reimpose the 36-month prison sentence based upon her claim that her term of community control had expired. In *State v. Rue*, the Supreme Court of Ohio observed as follows regarding the difference between jurisdiction and authority in relation to the court's ability to conduct revocation proceedings after a defendant's term of community control has expired:

Jurisdiction fundamentally concerns a court's constitutional or statutory power to adjudicate a case and "encompasses jurisdiction over the subject matter and over the person." *Pratts v. Hurley*, 102 Ohio St.3d 81, 2004-Ohio-1980, 806 N.E.2d 992, ¶ 11. The term "jurisdiction" is also used when referring to a court's exercise of its judicial power in a particular

case, *id.* at ¶ 12, and it “ “encompasses the trial court's authority to determine a specific case \* \* \* that is within its subject matter jurisdiction,” ’ ’ *id.*, quoting *State v. Parker*, 95 Ohio St.3d 524, 2002-Ohio-2833, 769 N.E.2d 846, ¶ 22 (Cook, J., dissenting), quoting *State v. Swiger*, 125 Ohio App.3d 456, 462, 708 N.E.2d 1033 (9th Dist.1998).

Most recently, in *State v. Harper*, 160 Ohio St.3d 480, 2020-Ohio-2913, 159 N.E.3d 248, we reexamined our conflicting precedents concerning void and voidable judgments in criminal cases and held that so long as the sentencing court had jurisdiction over the subject matter of the case and the defendant, any error in the court's exercise of its judicial power would render the judgment voidable upon appellate review. *Id.* at ¶ 26, 42; *see also State ex rel. Pizza v. Rayford*, 62 Ohio St.3d 382, 384, 582 N.E.2d 992 (1992), quoting *Sheldon's Lessee v. Newton*, 3 Ohio St. 494, 499 (1854) (“Once a tribunal has jurisdiction over both the subject matter of an action and the parties to it, \* \* \* ‘the right to hear and determine is perfect; and the decision of every question thereafter arising is but the exercise of the jurisdiction thus conferred \* \* \*’ ” [ellipses added in *Pizza*]); *Pratts* at ¶ 12.

In the matter at hand, there is no doubt that the court of common pleas had subject-matter jurisdiction over Rue's felony case. *See Harper* at ¶ 24-25. To the extent this dispute concerns actions taken by the trial court in the exercise of its judicial power, this case does not truly concern the trial court's jurisdiction; more precisely, it concerns the trial court's authority to conduct the community-control-revocation proceedings.

We fully acknowledge that this court has indicated in prior decisions that a common pleas court lacked “jurisdiction” to revoke a defendant's probation and impose sentence because the defendant's probationary period had already expired. *See Davis v. Wolfe*, 92 Ohio St.3d 549, 552, 751 N.E.2d 1051 (2001) (applying former R.C. 2951.09); *State v. Yates*, 58 Ohio St.3d 78, 79-80, 567 N.E.2d 1306 (1991). Former R.C. 2951.09, Am.Sub.S.B. No. 258, 143 Ohio Laws, Part I, 1308, 1481, provided: “At the end or termination of the period of probation,

the jurisdiction of the judge or magistrate to impose sentence ceases and the defendant shall be discharged.” But R.C. 2951.09 was repealed, effective January 1, 2004, see Am.Sub.H.B. No. 490, 149 Ohio Laws, Part V, 9484, 9485 (“H.B. 490”), and its terms do not appear to have been incorporated into any other provision of the Ohio Revised Code. Regardless of the nomenclature that may have been used previously in those or other cases, and in the interest of judicial precision, we now understand those cases more accurately to concern the court's authority to conduct the proceedings, not its jurisdiction to conduct the proceedings.

For purposes of this case, then, the issue we decide is not whether the trial court had jurisdiction to conduct these community-control-revocation proceedings but, rather, whether the trial court had the authority to conduct those proceedings. With that clarification in place, we now proceed to consider the merits of the issues presented.

*State v. Rue*, 2020-Ohio-6706, ¶ 13-17.

Thus, although appellant frames her assignment of error in terms of whether the trial court had jurisdiction to conduct the revocation proceedings at issue, we find the matter more appropriately involves the question of whether the trial court had authority to conduct the proceedings.

R.C. 2929.15(A)(1) Community Control v.  
R.C. 2929.20(K) Judicial Release

{¶12} We next address appellant's argument that the maximum amount of time she could be placed on community control was five years. Appellant essentially claims that the term of community control initially imposed after her conviction under R.C. 2929.15(A)(1), as well as the term of community control

imposed under R.C. 2929.20(K) after her judicial release, could not exceed a combined total of five years. She argues that her initial term of community control was imposed on September 16, 2014, and after adding all tolling days, it expired on April 16, 2020. Therefore, she contends that the purported June 9, 2020, community control violation, which serves as the basis of the current matter, did not occur until after her term of community control had expired. For the following reasons, we find no merit to this argument.

{¶13} In *State v. Barefield*, 2023-Ohio-115 (12th Dist.), the court noted at ¶ 23 that the rules applicable to violations of an original sentence of community control under R.C. 2929.15 “should not be confused with the provisions applicable to judicial release under R.C. 2929.20” despite the fact that “ ‘R.C. 2929.20(K) confusingly uses the term “community control” in reference to the status of an offender granted judicial release.’ ” Quoting *State v. Lammie*, 2022-Ohio-419, ¶ 10 (3d Dist.). This Court has also observed the distinction between the two types of supervision, importantly noting that community control imposed under R.C. 2929.15 is terminated and therefore ends once it is revoked and a defendant is sent to prison. *See State v. Filous*, 2017-Ohio-7203, ¶ 10 (4th Dist.). More specifically, in *Filous* we stated as follows:

Courts, including this District and the Supreme Court of Ohio, routinely reference the termination or revocation of community control. *State v. Fraley*, 105 Ohio St.3d 13, 2004-Ohio-7110, 821 N.E.2d 995; *State v. Wolfson*, 4th Dist. Lawrence No.

03CA25, 2004-Ohio-2750, 2004 WL 1178724, ¶ 8 (trial court's decision to revoke community control may only be reversed if the court abused its discretion). In our view, when a trial court terminates or revokes a defendant's community control, it is implicit that the term of community control ends. Although R.C. 2929.15 does not specifically label the decision to impose a prison term for a community control violation as a termination or revocation of the community control, for all intents and purposes it is nevertheless ended. We believe this reasoning is further bolstered by the fact that when the trial court granted Appellant judicial release after it had imposed a prison term for a violation of Appellant's community control, which will be discussed more fully below, it was required, under the judicial release statute, to place Appellant on community control. R.C. 2929.20(K). If Appellant's community control continued when he was sent to prison, there would have been no reason for the trial court to have to affirmatively place him on community control after he was judicially released.

*Id.*

{¶14} Applying the foregoing, although appellant was initially sentenced to a five-year term of community control under R.C. 2929.15(A)(1) upon conviction on September 16, 2014, that term of community control ended when it was revoked on April 1, 2015, and appellant was sent to prison. Thereafter, when appellant was granted judicial release in October of 2015, the trial court was statutorily required by R.C. 2929.20(K) to place her under a new “appropriate community control sanction,” not to exceed five years. R.C. 2929.20(K). *See also State v. Collins*, 2025-Ohio-1230, ¶ 13 (4th Dist.). Appellant was placed on what is typically and as noted above, confusingly, called “community control” under R.C. 2929.20(K) after she was granted judicial release, verified by her signing of a

document setting forth the “Terms and Conditions of Intensive Supervision Probation.” That document stated that the term of her “probation dates” were October 16, 2015, to October 16, 2020.

{¶15} Based upon our review of the record, we find no error in the trial court’s decision to place appellant on a new five-year term of community control after her judicial release, which it was bound to do under R.C. 2929.20(K), despite the fact that she had already served approximately six months of community control under R.C. 2929.15(A)(1) before it was terminated on April 1, 2015 when she was first sent to prison. The Court’s actions appear to be in accordance with the above statutory requirements and appellant has cited to no authority in support of her argument that community control terms imposed under R.C. 2929.15(A)(1) and 2929.20(K) cannot exceed a combined total of five years. Moreover, this Court rejected such an argument in *State v. Jenkins*, 2011-Ohio-6924, ¶ 12, 14 (4th Dist.) (“ \* \* \* other than the use of a common term – “community control” – there is no statutory language to suggest that the five-year maximums under R.C. 2929.15(A)(1) and R.C. 2929.20(K) should be combined). *See also State v. Thompson*, 2023-Ohio-4085, ¶ 37-38 (10th Dist.).<sup>2</sup> Accordingly, we find no merit to this portion of appellant’s argument.

---

<sup>2</sup> Although Appellant has provided no binding authority requiring this Court to depart from its prior reasoning in *Jenkins*, *supra*, she does properly point out that the Supreme Court of Ohio is currently reviewing the question of whether the combined total limit of community control is limited to five years. *See State v. Thompson*, 2024-Ohio-1507. However, *Thompson* is still under review and no decision has yet been issued.

### Authority to Conduct Revocation Proceedings

{¶16} We now address appellant’s contention that the trial court lacked authority to reimpose the 36-month prison sentence at a revocation hearing held on August 22, 2024, and by judgment entry dated September 11, 2024. It is clear that this revocation and reimposition occurred beyond the stated end of appellant’s R.C. 2929.20(K) community control term, which had an expiration date of October 16, 2020. Under this assignment of error, appellant continues to argue that R.C. 2929.15 controls and that although it contains tolling provisions, none of those provisions apply here. Appellant alternatively argues that if we are to conclude that R.C. 2929.20(K) is controlling (which we already have), that statute does not contain any tolling provisions. Appellant therefore contends that the June 9, 2020 violation did not toll the “running of the community control clock” and therefore the “three-year imprisonment should be reversed.”

{¶17} The State first responds by pointing out that the delay in conducting the revocation hearing was a result of appellant’s desire to “resolve case 20-CR-388(B) prior to proceeding with any probation violation proceedings in this matter.” The State also points out that appellant requested a stay of the probation revocation proceedings pending resolution of the other case. Nonetheless, the State argues that the trial court had authority to revoke and reimpose because 1) the period of community control was tolled by the filing of a complaint alleging a

violation; and 2) appellant was served with the notice of violation and revocation proceedings were begun before the term of community control expired.

{¶18} The State argued at the trial court level that it was permitted to proceed upon not only the June 19, 2020 alleged probation violation, but also several amended motions to revoke probation that were filed alleging new and additional violations on January 19, 2021, March 15, 2023, and March 28, 2024. It reasoned that appellant’s community control was tolled with the filing of the first motion to revoke filed on June 19, 2020, on the authority of R.C. 2951.09 and R.C. 2951.07. However, this Court previously observed in *State v. Semenchuk*, 2010-Ohio-4864, ¶ 6 (4th Dist.) that “R.C. 2951.09 was repealed effective January 2, 2004.” *See also Rue*, supra, at ¶ 16. Further, the Supreme Court of Ohio held in *State v. Rue* that the State’s reliance on R.C. 2951.07 for its tolling argument was misplaced with respect to community control imposed under R.C. 2929.15 for a felony conviction, reasoning that that “issues pertaining to absconding and tolling are governed by R.C. 2929.15(A)(1) and not R.C. 2951.07.” *Rue*, supra, at ¶ 28. Admittedly, *Rue* did not deal with community control imposed under R.C. 2929.20(K) which is at issue here.

{¶19} Although *Rue* addressed tolling vis a vie R.C. 2929.15, and although we are dealing with R.C. 2929.20(K)—the plain language of which contains no tolling provisions – we do find that some of the reasoning contained in *Rue*

provides guidance that can be applied to the present matter. For example, in *Rue* the Court stated as follows:

Our prior decisions recognize that a trial court is “authorized to conduct proceedings on the alleged community-control violations even though they were conducted after the expiration of the term of community control, provided that the notice of violations was properly given and the revocation proceedings were commenced before the expiration.” *State ex rel. Hemsley v. Unruh*, 128 Ohio St.3d 307, 2011-Ohio-226, 943 N.E.2d 1014, ¶ 13; *see also State ex rel. Untied v. Ellwood*, 131 Ohio St.3d 37, 2011-Ohio-6343, 959 N.E.2d 1048, ¶ 2 (charge for violating community control was filed before community control expired). *Compare Yates*, 58 Ohio St.3d at 79-80, 567 N.E.2d 1306 (because the state failed to initiate probation-violation proceedings before the defendant's probation term expired, the trial court lacked jurisdiction to declare defendant an absconder and find him guilty of violating the terms of his probation).

*Rue* at ¶ 18.<sup>3</sup>

At least one court in Ohio has extended this reasoning to notices of violations served before the expiration of community control imposed under R.C.

2929.20(K). *See Wordlow v. Bracy*, 2022-Ohio-4280, ¶ 8 (“Because \* \* \* the notice of violation was properly given and the revocation proceedings were commenced \* \* \* before the term had expired, the common pleas court was not divested of subject matter jurisdiction to conduct the proceedings.”).

---

<sup>3</sup> “Courts have found that proceedings have been commenced where a probation violation has been filed and a hearing has been set.” *State v. Sayers*, 2023-Ohio-672, ¶ 19 (11th Dist.), citing *State v. Thomas*, 2014-Ohio-2912, ¶ 18 (10th Dist.); *Semenchuk*, *supra*, at ¶ 7.

{¶20} We construe *Rue, Hemsley, and Wordlow* to mean that when the State provides a defendant with a notice of violation and begins revocation proceedings prior to the expiration of community control, the State is simply permitted to litigate those particular violations to conclusion, despite the fact that the community control term might expire in the interim. However, we do not interpret *Rue, Hemsley, and Wordlow* to mean that a defendant's term of community control is tolled until the proceedings upon those violations are concluded, thereby allowing more and more notices of violations to be filed after the stated expiration date of the term of community control, as was done in this case.

{¶21} Applying the foregoing reasoning, we hold that the trial court retained jurisdiction to proceed upon the notice of violation filed June 19, 2020, that was properly served upon appellant during the term of her community control, which did not expire until October 16, 2020. That notice alleged two violations: 1) "Being arrested and charged with Possession of Cocaine, on or about 06/09/2020"; and 2) "Being out after curfew on or about 06/09/2020." Not only did the State timely provide appellant with that particular notice of violation, a revocation hearing was promptly scheduled for July 8, 2020. Although it appears that hearing was held, there is no transcript in the appellate record. Further, although the State attributes the delay in bringing the matter to conclusion to appellant's requests for continuance as well as her request for a stay pending trial of the other case, the

record does not contain multiple requests for continuances but rather hearings seemed to be scheduled and then continued repeatedly for no apparent reason.

Moreover, although appellant requested a stay of the revocation proceedings, there is no order in the record demonstrating that the trial court granted a stay.

{¶22} Instead, it appears that the final revocation hearing was delayed by a change in visiting judges as well as the State's continuing to file amended notices of violation that kept alleging new and additional violations for four years after the term of community control expired. Importantly, none of the notices of violations filed beyond the notice initially filed on June 19, 2020, were filed prior to the expiration of community control on October 16, 2020. Thus, having concluded that appellant's community control was not tolled, we further conclude that all of the amended notices filed in 2021, 2023, and 2024 were untimely and therefore the trial court lacked authority to proceed upon them.

{¶23} Because it appears from a review of both the revocation hearing transcript as well as the judgment entry that the trial court based its revocation decision on all four notices of violation and did not limit its consideration to the violations alleged in the June 19, 2020 timely notice of violation, the judgment of the trial court is reversed and this matter is remanded to the trial court with instructions to limit its consideration to only the June 19, 2020 notice of violation

and evidence introduced in support thereof in determining whether appellant's community control should be revoked.

**JUDGMENT REVERSED AND CAUSE REMANDED.**

**JUDGMENT ENTRY**

It is ordered that the JUDGMENT BE REVERSED AND CAUSE REMANDED and costs be assessed to appellee.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Scioto County Common Pleas Court 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. and Hess, J. concur in Judgment and Opinion.

For the Court,

---

Jason P. Smith  
Presiding Judge

**NOTICE TO COUNSEL**

**Pursuant to Local Rule No. 22, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.**