

IN THE COURT OF APPEALS OF OHIO  
SIXTH APPELLATE DISTRICT  
WOOD COUNTY

State of Ohio

Court of Appeals No. WD-10-024

Appellee

Trial Court No. 01 CR 334

v.

Tarrell Hicks

**DECISION AND JUDGMENT**

Appellant

Decided: April 27, 2012

\* \* \* \* \*

Paul A. Dobson, Wood County Prosecuting Attorney, Gwen Howe-Gebers, Chief Assistant Prosecuting Attorney, and David E. Romaker, Jr., Assistant Prosecuting Attorney, for appellee.

Lawrence A. Gold, for appellant.

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**PIETRYKOWSKI, J.**

{¶ 1} Terrell Hicks appeals an April 19, 2010 judgment of the Wood County Court of Common Pleas, resentencing him on convictions for three counts of robbery, violations of R.C. 2911.02 and second degree felonies. The convictions are based upon

jury verdicts returned at trial in May 2002. The trial court originally imposed sentence in a judgment filed on July 29, 2002.

{¶ 2} Appellant pursued a direct appeal of his convictions to this court. We affirmed. *State v. Hicks*, 6th Dist. No. WD-02-44, 2004-Ohio-2780.

{¶ 3} On February 16, 2010, appellant filed a motion in the trial court asserting that the July 29, 2002 judgment was void due to a sentencing error with respect to imposition of postrelease control. In response to the motion, the trial court conducted a de novo resentencing hearing on April 12, 2010. In the April 19, 2010 judgment, the trial court explained that the de novo resentencing hearing was conducted pursuant to the Ohio Supreme Court's decision in *State v. Singleton*, 124 Ohio St. 3d 173, 2009-Ohio-6434, 920 N.E.2d 958.

{¶ 4} This appeal is from the judgment filed after the resentencing hearing, the amended judgment filed on April 19, 2010.

{¶ 5} In *State v. Singleton*, the Ohio Supreme Court held, with respect to sentences imposed before July 11, 2006, that where a trial court fails to properly impose postrelease control as a part of a criminal sentence, the defendant was entitled to a de novo resentencing hearing to correctly impose postrelease control. *Id.* at paragraph one of the syllabus. In *Singleton*, the court reaffirmed its holding in *State v. Simpkins*, 117 Ohio St.3d 420, 2008-Ohio-1197, 884 N.E.2d 568, ¶ 6 that sentences that fail to properly include postrelease control are void. *Singleton* at ¶ 18.

{¶ 6} In *State v. Fischer*, 128 Ohio St.3d 92, 2010-Ohio-6238, 942 N.E.2d 332, the Ohio Supreme Court recognized that where a defendant prevails in showing errors with respect to postrelease control in his sentence, those errors void only the postrelease control aspect of the case. *Fischer* at ¶ 17. “The remainder of the sentence, which the defendant did not successfully challenge, remains valid under the principles of res judicata.” *Id.*

{¶ 7} Appellant asserts three assignments of error in this appeal. They include claimed trial court error in imposing consecutive sentences, claimed error in imposing a prison term in excess of the minimum prison term for the offense of robbery, and claimed error in failing to treat the three robbery convictions at sentencing as allied offenses and merged into a single conviction for robbery. In appeals from judgments resentencing a defendant to correct sentencing errors with respect to imposition of postrelease control, this court has declined, under *Fischer*, to address claimed sentencing errors unrelated to imposition of postrelease control. *State v. Young*, 6th Dist. No. E-11-029, 2012-Ohio-1102, ¶ 16-18. The time to raise these other sentencing issues was on direct appeal, not on appeal from resentencing for postrelease control.

{¶ 8} Accordingly, we find appellant’s assignments of error are not well-taken. We affirm the judgment of the Wood County Court of Common Pleas. We order appellant to pay the costs of this appeal pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27.  
*See also* 6th Dist.Loc.App.R. 4.

Mark L. Pietrykowski, J.

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JUDGE

Arlene Singer, P.J.

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JUDGE

Thomas J. Osowik, J.  
CONCUR.

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JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:  
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.