

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-150169
Plaintiff-Appellee,	:	TRIAL NO. B-1007154
vs.	:	<i>JUDGMENT ENTRY.</i>
MICHAEL JONES,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant Michael Jones appeals the Hamilton County Common Pleas Court’s judgment overruling his postconviction “Motion for Re-Sentencing Based on Void Judgment.” We affirm the court’s judgment as modified.

Jones was convicted in 2011 of murder. He unsuccessfully challenged his convictions on direct appeal to this court and the Ohio Supreme Court, *State v. Jones*, 1st Dist. Hamilton No. C-110709 (Sept. 5, 2012), *appeal not accepted*, 134 Ohio St.3d 1422, 2013-Ohio-158, 981 N.E.2d 886, and in postconviction motions filed with the common pleas court in 2014 and 2015. *See State v. Jones*, 1st Dist. Hamilton No. C-150069 (Dec. 23, 2015). In this appeal, he advances a single assignment of error challenging the denial of the relief sought in his 2015 “Motion for Re-Sentencing Based on Void Judgment.” We overrule the assignment of error, because the common pleas court had no jurisdiction to entertain the motion.

Jones did not designate in his motion a statute or rule under which he might be afforded the relief sought. R.C. 2953.21 et seq., governing the proceedings upon a

postconviction petition, provide “the exclusive remedy by which a person may bring a collateral challenge to the validity of a conviction or sentence in a criminal case.” *See* R.C. 2953.21(J). Therefore, the motion was reviewable under the standards provided by the postconviction statutes. *See State v. Schlee*, 117 Ohio St.3d 153, 2008-Ohio-545, 882 N.E.2d 431, ¶ 12.

But the postconviction statutes did not confer upon the common pleas court jurisdiction to entertain the motion, because Jones did not satisfy the time restrictions of R.C. 2953.21(A)(2) or the jurisdictional requirements of R.C. 2953.23. And Jones’s postconviction claim was not reviewable under a court’s jurisdiction to correct a void judgment, *see State ex rel. Cruzado v. Zaleski*, 111 Ohio St.3d 353, 2006-Ohio-5795, 856 N.E.2d 263, ¶ 18-19, because his sentence was not rendered void by the trial court’s failure to notify him at sentencing, consistent with R.C. 2947.23(A)(1), that he could be ordered to perform community service in lieu of paying court costs. *See State v. Wurzelbacher*, 1st Dist. Hamilton No. C-130011, 2013-Ohio-4009, ¶ 11.

The common pleas court had no jurisdiction to entertain Jones’s motion for resentencing. The motion was, therefore, subject to dismissal. *See* R.C. 2953.21(C) and 2953.23(A). Accordingly, upon the authority of App.R. 12(A)(1)(a), we modify the judgment appealed from to reflect the dismissal of the motion. And we affirm the judgment as modified.

A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

FISCHER, P.J., HENDON and CUNNINGHAM, JJ.

To the clerk:

Enter upon the journal of the court on May 20, 2016
per order of the court. _____.

Presiding Judge