

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

STATE OF OHIO,	:	APPEAL NOS. C-060347
		C-060999
Plaintiff-Appellee,	:	TRIAL NOS. B-9800280
		B-0408627
vs.	:	
		<i>JUDGMENT ENTRY.</i>
CHRISTIAN PEARSON,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

On April 23, 1998, defendant-appellant Christian Pearson was sentenced for felonious assault with a deadly weapon, assault, vandalism, and failing to comply with the order of a police officer. He was sentenced to concurrent terms, which resulted in a net term of eight years' incarceration. The original sentencing entry stated that "judicial release will be granted in 18 months." On July 28, 1999, Pearson was granted judicial release under R.C. 2929.20 and was placed on community control for five years. Pearson violated the terms of his community control. In an entry journalized on May 8, 2000, nunc pro tunc to April 27, 2000, the court sentenced Pearson to six years' incarceration with a credit of 23 months. Neither sentencing entry contained any post-release-control language. Pearson served his sentence and was released on May 25, 2004.

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

On September 9, 2004, Pearson was indicted for trafficking in cocaine. He pleaded guilty in exchange for the dismissal of other charges. On October 27, 2005, Pearson was sentenced to two years' incarceration. The sentencing entry stated that Pearson's two-year sentence was to be "served consecutively to the post-release control sentence" in the 1998 case. The trial court calculated the 1998 post-release-control sentence to be 1306 days' incarceration. The sentencing entry stated that Pearson was subject to post-release control in the 2004 case, but the transcript of the proceedings shows that the court did not inform Pearson at the sentencing hearing that he was subject to post-release control. Pearson appealed the judgment in the 2004 case in the appeal numbered C-060347.

On October 27, 2005, the trial court also journalized an entry in the 1998 case that imposed a sentence on the post-release-control violation in that case. The court calculated the post-release-control sentence to be 1306 days. The entry stated that the "additional 1306 days" were to be served consecutively to the sentence imposed in the 2004 case. Pearson's appellate counsel filed a motion for a delayed appeal in the 1998 case, which we granted. The appeal from the judgment in the 1998 case has been assigned the number C-060999. We have consolidated Pearson's appeals.

The sole assignment of error alleges that the trial court erred in imposing any sentence for a post-release-control violation in the 1998 case because the court in that case did not inform Pearson at sentencing that he would be subject to post-release control, and because the sentencing entry in that case did not contain post-release-control language. The assignment of error is sustained. Pearson had served his sentence in the 1998 case and had been released without being informed about post-

release control. Therefore, he could not have been sentenced for a post-release-control violation in that case.²

We point out that the trial court in the 2004 case did not inform Pearson at the sentencing hearing that he was subject to post-release control. Therefore, the sentence imposed in that case was void and the case must be remanded for resentencing.³

Therefore, the judgment of the trial court in the appeal numbered C-060999 is reversed, and the case is remanded with instructions to the trial court to vacate the sentence imposed for the post-release-control violation in the case numbered B-9800280. The judgment of the trial court in the appeal numbered C-060347 is reversed, and the case numbered B-0408627 is remanded for resentencing with proper notification of post-release control.

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.

PAINTER, P.J., HILDEBRANDT and WINKLER, JJ.

RALPH WINKLER, retired, from the First Appellate District, sitting by assignment.

To the Clerk:

Enter upon the Journal of the Court on July 3, 2007
per order of the Court _____
Presiding Judge

² See *Hernandez v. Kelly*, 108 Ohio St.3d 395, 2006-Ohio-126, 844 N.E.2d 301.

³ See *State v. Jordan*, 104 Ohio St.3d 21, 2004-Ohio-6085, 817 N.E.2d 864; *State v. Bankhead*, 1st Dist. No. C-060480, 2007-Ohio-1314.