

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

STATE OF OHIO,	:	APPEAL NO. C-100171
	:	TRIAL NO. B-0403885
Plaintiff-Appellee,	:	
vs.	:	
	:	<i>JUDGMENT ENTRY.</i>
MICHAEL KIDD,	:	
	:	
Defendant-Appellant.	:	

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

In June 2004, defendant-appellant Michael Kidd pleaded guilty to one count of aggravated robbery and a firearm specification. In return, the state dismissed a robbery count and a firearm specification in the indictment. The trial court sentenced Kidd to four years in prison for the aggravated robbery and to one year in prison for the firearm specification, and it ordered the terms be served consecutively for a total aggregate sentence of five years in prison.

In February 2010, Kidd was returned to the trial court for resentencing. The trial court imposed the same sentence and notified Kidd that he would be subject to a mandatory five-year term of postrelease control. Kidd now appeals.

In a sole assignment of error, Kidd argues that the trial court lacked jurisdiction to resentence him and to impose a five-year term of postrelease control upon him because he had already completed his five-year term of incarceration.<sup>2</sup> We disagree.

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

<sup>2</sup> See *State v. Bezak* (2007), 114 Ohio St.3d 94, 2007-Ohio-3250, 868 N.E.2d 961; *State v. Bloomer*, 122 Ohio St.3d 200, 2009-Ohio-2462, 909 N.E.2d 1254.

The record is devoid of any evidence that Kidd had completed his term of incarceration at the time he was resentenced and notified of his mandatory term of post-release control. Kidd maintains that a July 2004 entry with a calculated release date of April 15, 2009, demonstrates that the trial court lacked jurisdiction to resentence him on February 10, 2010. Thus, Kidd argues that he had completed his term of incarceration in this case and was serving a different term of incarceration at the Allen Correctional Institution at the time he was returned for resentencing. But neither Kidd nor his counsel objected to his resentencing or provided any evidence indicating that Kidd had completed his term of incarceration in this case. Because Kidd has not demonstrated that the trial court lacked jurisdiction to resentence him, we overrule his sole assignment of error and affirm the judgment of the trial court.

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

**HILDEBRANDT, P.J, SUNDERMANN and MALLORY, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on November 17, 2010

per order of the Court \_\_\_\_\_.

Presiding Judge