

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

STATE OF OHIO,	:	APPEAL NO. C-110393
Plaintiff-Appellee,	:	TRIAL NOS. B-0802769
vs.	:	B-0803398
	:	B-0901890
DONALD MORRIS,	:	
Defendant-Appellant.	:	<i>JUDGMENT ENTRY.</i>

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. 3(A); App.R. 11.1(E); Loc.R. 11.1.1.

Defendant-appellant Donald Morris presents on appeal a single assignment of error challenging the Hamilton County Common Pleas Court’s judgment overruling his motions seeking to vacate, on various grounds, the judgments of conviction entered in the cases numbered B-0802769, B-0803398, and B-0901890. We overrule the assignment of error because the common pleas court had no jurisdiction to entertain the motions.

In 2009, Morris was convicted upon guilty pleas to multiple counts of breaking and entering, theft, receiving stolen property, and drug possession. From his convictions, he failed to perfect direct appeals. Instead, in April 2011, in each case, he filed with the common pleas court a “Motion to Vacate Clerk[’]s Judgment for Court Cost[s] * * * or Void Said Sentence[s] Therein.” The court overruled the motions, and this appeal followed.

In his motions, Morris did not designate the statute or rule under which he sought relief. R.C. 2953.21 et seq., governing the proceedings on a petition for postconviction relief, 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.” R.C. 2953.21(J). Therefore, the common pleas court should have recast Morris’s motions as postconviction petitions and reviewed them 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 Morris failed to satisfy either the time restrictions of R.C. 2953.21(A)(2) or the jurisdictional requirements of R.C. 2953.23. Therefore, the postconviction statutes did not confer upon the common pleas court jurisdiction to entertain Morris’s motions on their merits.

A trial court retains 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. And Morris asserted in his motions that his sentences are void to the extent that the trial court had failed to adequately notify him at sentencing concerning postrelease control. But the common pleas court, in deciding Morris’s motions, did not have before it a transcript of the proceedings at sentencing, because Morris had not timely appealed his convictions, and because he did not request that a transcript be prepared for the common pleas court’s decision on the motions. In the absence of the transcript, Morris’s sentences were not demonstrably void for inadequate postrelease-control notification.

Morris also asserted in his motions that the trial court had erred in imposing “attorney fee[s] and court cost[s],” in sentencing him in violation of the multiple-counts statute, and in failing to afford him a “speedy trial.” And he sought to

withdraw his guilty pleas. But the common pleas court had no jurisdiction to entertain these claims, because the claims, even if demonstrated, would not have rendered Morris's judgments of conviction void.

Because the common pleas court had no jurisdiction to entertain Morris's postconviction motions, the motions were 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 judgments appealed from to reflect the dismissal of the motions. And we affirm the judgments as modified.

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.

DINKELACKER, P.J., HILDEBRANDT and HENDON, JJ.

To the clerk:

Enter upon the journal of the court on December 14, 2011

per order of the court _____.

Presiding Judge