

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

STATE OF OHIO,	:	APPEAL NO. C-120084
	:	TRIAL NO. B-0106505
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
TERENCE E. DICKENS,	:	
	:	
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 Terence E. Dickens presents on appeal two assignments of error that, reduced to their essence, challenge the Hamilton County Common Pleas Court’s judgment overruling his “Motion to Vacate Void Judgment and Sentence.” We overrule the assignments of error and affirm the court’s judgment as modified.

Dickens was convicted in 2002 upon guilty pleas to two counts of drug trafficking and was sentenced to community control. He took no direct appeal from his trafficking convictions.

In 2002, the trial court found Dickens guilty of violating his community control and sentenced him to prison. We reversed and remanded for resentencing, because the court had not, as required by R.C. 2919.19(B)(5), notified Dickens of the specific prison term that could be imposed for a community-control violation. *State*

v. Dickens, 1st Dist. No. C-020498 (July 16, 2003). On remand, the trial court resentenced Dickens to community control.

In 2004, the court again found Dickens guilty of violating community control and sentenced him to prison. We affirmed his 2004 convictions on appeal. *State v. Dickens*, 1st Dist. Nos. C-040768 and C-040774 (Oct. 26, 2005).

In 2006, Dickens's case was remanded for resentencing consistent with *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470. *In re Ohio Criminal Sentencing Statutes Cases*, 109 Ohio St.3d 313, 2006-Ohio-2109, 847 N.E.2d 1174, ¶ 227. He unsuccessfully challenged his 2006 resentencing in appeals to this court and to the Ohio Supreme Court. *State v. Dickens*, 1st Dist. No. C-060664 (May 2, 2007), *appeals not accepted*, *State v. Dickens*, 115 Ohio St.3d 1413, 2007-Ohio-4884, 873 N.E.2d 1317, and *State v. Dickens*, 116 Ohio St.3d 1510, 2008-Ohio-381, 880 N.E.2d 484.

Finally, beginning in 2010, Dickens challenged his community-control-violation convictions in a series of postconviction motions. He here appeals from the overruling of his April 2011 "Motion to Vacate Void Judgment and Sentence," in which he again insisted that the trial court had erred in sentencing him to prison for his community-control violations because the court had not, as required by R.C. 2919.19(B)(5), notified him of the specific prison term that could be imposed for a community-control violation.

Dickens did not designate in his motion 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 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 motion did not 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 the motion on its 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. But in our 2005 and 2007 decisions, we held that the trial court’s imposition of a prison sentence for Dickens’s 2004 community-control violation fully comported with the requirements of R.C. 2929.19(B)(5). *See Dickens*, 1st Dist. Nos. C-040768 and C-040774; *Dickens*, 1st Dist. No. C-060664. Under the doctrine of the law of the case, the law of those decisions precluded the common pleas court from vacating Dickens’s sentences upon his “Motion to Vacate Void Judgment and Sentence” or on the ground that an R.C. 2929.19(B)(5) error rendered his convictions void. *See Nolan v. Nolan*, 11 Ohio St.3d 1, 3, 462 N.E.2d 410 (1984); *Perez v. Cleveland*, 1st Dist. No. C-940553, 1995 Ohio App. LEXIS 5436 (Dec. 13, 1995) (holding that, under the doctrine of the “law of the case,” a “decision of a reviewing court in a case remains the law of that case on the legal questions involved for all subsequent proceedings in the case at both the trial and reviewing levels,” and thus, an inferior court confronted with substantially the same facts and issues involved in a prior appeal is bound by the superior court’s determination of those issues).

Because the common pleas court had no jurisdiction to grant Dickens the relief sought in his postconviction motion, the motion was subject to dismissal. *See*

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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 is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

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

To the clerk:

Enter upon the journal of the court on April 12, 2013
per order of the court _____.
Presiding Judge