

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

STATE OF OHIO,	:	APPEAL NO. C-120487
Plaintiff-Appellee,	:	TRIAL NO. B-8903470
vs.	:	
ROBERT BRAGGS,	:	<i>JUDGMENT ENTRY.</i>
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 Robert Braggs presents on appeal a single assignment of error, challenging the Hamilton County Common Pleas Court’s judgment overruling Braggs’s “Motion for Resentencing Based on Void Judgment Entry in Violation of R.C. 2947.23(A)(1)(a)&(b) and R.C. 2925.11(E)(2).” We affirm the court’s judgment.

Braggs was convicted of drug abuse in December 1989 and was placed on probation for three years. He unsuccessfully challenged his conviction in his direct appeal to this court, see *State v. Braggs*, 1st Dist. No. C-900003 (Nov. 9, 1990), and in a series of postconviction petitions and motions. See, e.g., *State v. Braggs*, 1st Dist. No. C-950436 (Dec. 22, 1995); *State v. Braggs*, 1st Dist. No. C-120137 (June 27, 2012).

In his “Motion for Resentencing Based on Void Judgment Entry,” filed June 11, 2012, Braggs sought “correct[ion]” of his sentence on the grounds that the sentence is void to the extent that the trial court did not, as required by R.C. 2925.11(E)(2), impose a mandatory driver’s license suspension and did not, as required by R.C. 2947.23(A)(1), notify him that he could be sentenced to community service if he failed to pay the costs of prosecution. We hold that the common pleas court had no jurisdiction to entertain the motion.

The motion was reviewable under the standards provided by R.C. 2953.21 et seq., governing the proceedings on a petition for postconviction relief, because Braggs did not designate the statute or rule under which he sought relief, and the postconviction statutes 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); *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 on its merits, because Braggs failed to satisfy either the time restrictions of R.C. 2953.21(A)(2) or the jurisdictional requirements of R.C. 2953.23.

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 any correction to a void sentence must be accomplished before the offender has completed his sentence. *State v. Bloomer*, 122 Ohio St.3d 200, 2009-Ohio-2462, 909 N.E.2d 1254, ¶ 70. *Accord State v. Qualls*, 131 Ohio St.3d 499, 2012-Ohio-1111, 967 N.E.2d 718, ¶ 24. And Braggs’s probation was “terminated” and his “case [was]

closed” in 1992, following his conviction on federal drug charges. Therefore, the common pleas court had no jurisdiction to correct Braggs’s sentence.

Because the common pleas court had no jurisdiction to entertain Braggs’s postconviction motion, the motion was 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 constitutes 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., DINKELACKER and FISCHER, JJ.

To the clerk:

Enter upon the journal of the court on February 27, 2013

per order of the court _____.
Presiding Judge