

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

STATE OF OHIO,	:	APPEAL NO. C-130147
Plaintiff-Appellee,	:	TRIAL NO. B-8805912
vs.	:	<i>JUDGMENT ENTRY.</i>
MARK B. SPRINGER,	:	
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 Mark B. Springer appeals from the Hamilton County Common Pleas Court’s judgment denying his “Motion to Re-Address Judgment and Set Aside Sentence \* \* \*.” We affirm the court’s judgment as modified.

Springer was convicted in 1989 upon jury verdicts finding him guilty of aggravated murder, murder, aggravated robbery, and aggravated burglary. He unsuccessfully challenged his convictions on direct appeal, *State v. Springer*, 1st Dist. Hamilton No. C-890703, 1990 Ohio App. LEXIS 5854 (Oct. 22, 2008), *reversed*, 63 Ohio St.3d 167, 586 N.E.2d 96 (1992), and in postconviction motions filed in 2005, 2009, and 2013. In this appeal from the overruling of his 2013 “Motion to Re-Address Judgment and Set Aside Sentence \* \* \*,” he advances four assignments of error.

We address first, and overrule, Springer’s fourth assignment of error, which essentially challenges the overruling of his motion. In his motion, Springer sought a new trial under Crim.R. 33(A)(1), on the ground that his aggravated-robbery conviction was void because the indictment had omitted the offense’s mens rea element. A Crim.R. 33(A)(1) motion for a new trial on the ground of an irregularity in the proceedings must

be filed either within 14 days of the return of the verdict or within seven days after leave to file a new-trial motion has been granted. And leave may be granted only upon “clear and convincing [evidence]” that the movant had been “unavoidably prevented” from timely filing his new-trial motion. *See* Crim.R. 33(B). The common pleas court cannot be said to have erred in denying Springer the relief sought, when he did not move for leave to file his new-trial motion out of time, and the record is devoid of evidence demonstrating unavoidable prevention. *See State v. Schiebel*, 55 Ohio St.3d 71, 74, 564 N.E.2d 54 (1990). *Accord State v. Hawkins*, 1st Dist. Hamilton No. C-110291, 2011-Ohio-5645, ¶ 14.

We also overrule the balance of Springer’s assignments of error. This court has jurisdiction to review only the judgment from which Springer appeals. In that judgment, the common pleas court overruled Springer’s Crim.R. 33 motion. In doing so, the court did not rule upon, because Springer had not asserted in his motion, the challenges to his convictions advanced in his first, second, and third assignments of error. Therefore, we are without jurisdiction to review those challenges in this appeal from the judgment denying Springer’s motion. *See State v. Gipson*, 1st Dist. Nos. C-960867 and C-960881, 1997 Ohio App. LEXIS 4404 (Sept. 26, 1997).

Finally, a court has 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 none of the errors alleged here or before the common pleas court would have rendered Springer’s convictions void.

Accordingly, we affirm the court’s judgment.

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., FISCHER and DEWINE, JJ.**

To the clerk:

Enter upon the journal of the court on November 22, 2013

per order of the court \_\_\_\_\_  
Presiding Judge