

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

STATE OF OHIO,	:	APPEAL NO. C-140324
Plaintiff-Appellee,	:	TRIAL NO. B-1104238
vs.	:	
WILLIAM FEARS,	:	<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 William Fears appeals from the Hamilton County Common Pleas Court’s judgment overruling his “Motion for De Novo Review to Vacate, Modify or Correct Sentence.” We affirm the court’s judgment.

Fears was convicted in 2012 on four counts of disrupting public service. He unsuccessfully challenged his convictions in his direct appeal to this court and in a series of postconviction motions. *See State v. Fears*, 1st Dist. Hamilton No. C-120260 (Jan. 25, 2013). He appeals here from the overruling of his March 2013 motion to merge his offenses under R.C. 2941.25. On appeal, he advances three assignments of error.

Fears’s first and second assignments of error, distilled to their essence, challenge the overruling of his March 2013 motion. Upon our determination that the

common pleas court had no jurisdiction to entertain the motion, we overrule the assignments of error.

In his motion, Fears contended that the trial court had erred in sentencing him for each count of disrupting public service, because the offenses were allied offenses of similar import subject to merger under R.C. 2941.25. Fears 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, Fears’s 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 postconviction statutes did not confer upon the common pleas court jurisdiction to entertain the motion on its merits, because Fears did not satisfy either the time restrictions of R.C. 2953.21(A)(2) or the jurisdictional requirements of R.C. 2953.23.

A court always has jurisdiction to correct a void judgment. *State ex rel. Cruzado v. Zaleski*, 111 Ohio St.3d 353, 2006-Ohio-5795, 856 N.E.2d 263, ¶ 18-19. But the common pleas court was precluded under the doctrine of the law of the case from granting Fears’s motion to merge his offenses, because this court had rejected his merger challenge in his direct appeal. *See Nolan v. Nolan*, 11 Ohio St.3d 1, 3, 462 N.E.2d 410 (1984) (holding that “the 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”).

In his third assignment of error, Fears contends that he was denied a fair trial when the state failed to disclose favorable evidence and secured his convictions with perjured and hearsay testimony. We do not reach the merits of these challenges.

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This court has jurisdiction to review only the judgment from which Fears appeals. In that judgment, the common pleas court overruled his March 2013 motion to merge his offenses. In overruling that motion, the court did not rule upon, because Fears did not assert in his motion, the challenges to his convictions presented in his third assignment of error. And those challenges, even if demonstrated, would not have rendered his convictions void. *See Kyles v. Whitley*, 514 U.S. 419, 434-436, 115 S.Ct. 1555, 131 L.Ed.2d 490 (1995); *United States v. Agurs*, 427 U.S. 97, 103, 96 S.Ct. 2392, 49 L.Ed.2d 342 (1976); *State v. Bayless*, 48 Ohio St.2d 73, 106, 357 N.E.2d 1035 (1976), *vacated on other grounds*, *Bayless v. Ohio*, 438 U.S. 911, 98 S.Ct. 3135, 57 L.Ed.2d 1155 (1978) (requiring proof that undisclosed, false, or hearsay evidence affected the verdict). Therefore, in this appeal from the judgment overruling Fears's March 2013 motion, we are without jurisdiction to entertain the challenges advanced by Fears in his third assignment of error. *See State v. Gipson*, 1st Dist. Hamilton Nos. C-960867 and C-960881, 1997 Ohio App. LEXIS 4404 (Sept. 26, 1997).

Because the common pleas court had no jurisdiction to entertain Fears's 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 is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**CUNNINGHAM, P.J., HENDON and FISCHER, JJ.**

To the clerk:

Enter upon the journal of the court on December 10, 2014  
by order of the court \_\_\_\_\_.

Presiding Judge