

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

STATE OF OHIO,	:	APPEAL NO. C-150300
Plaintiff-Appellee,	:	TRIAL NO. C-15CRB-4251
vs.	:	<i>JUDGMENT ENTRY.</i>
ALLEN HAFFORD, JR.,	:	
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.

Following a bench trial, defendant-appellant Allen Hafford, Jr., challenges the sentence imposed by the Hamilton County Municipal Court. The trial court had found Hafford guilty of domestic violence against his wife, Kandis. In his sole assignment of error, Hafford argues that the trial court’s sentencing entry does not accurately reflect the sentence imposed at the sentencing hearing.

The challenged portions of the trial court’s sentencing entry included a provision ordering Hafford to have “No Contact. STAY AWAY. [Kandis] Hafford’s & no contact w/ children there.” It also provided that “any visitation with children [is] to occur” at the home of the children’s grandmother. Hafford and the state agree, in large part, that these entries do not reflect the details of the trial court’s sentencing decision.

When a trial court has properly imposed sentence at a sentencing hearing, but the sentencing entry does not accurately reflect the details of the sentence, the imperfect sentencing entry can be corrected through a nunc pro tunc entry. *See State v. Qualls*, 131 Ohio St.3d 499, 2012-Ohio-1111, 967 N.E.2d 718, ¶ 13; *see also State v. Breedlove*, 46 Ohio App.3d 78, 81, 546 N.E.2d 420 (1st Dist.1988); *State v. Houston*, 1st Dist. Hamilton No. C-130429, 2014-Ohio-3111, ¶ 41-42.

No new sentencing hearing is required, because the trial court's failure to record properly the sentence in its sentencing entry was manifestly a clerical error. Although trial courts generally lack authority to reconsider their own valid final judgments in criminal cases, they retain continuing jurisdiction to correct clerical errors in judgments by nunc pro tunc entry to reflect what the court actually decided. *See* Crim.R. 36; *see also State ex rel. Womack v. Marsh*, 128 Ohio St.3d 303, 2011-Ohio-229, 943 N.E.2d 1010, ¶ 13; *State v. Lester*, 130 Ohio St.3d 303, 2011-Ohio-5204, 958 N.E.2d 142, ¶ 18-19 (courts possess the authority to correct an error in a judgment entry so that the record speaks the truth).

Here, the transcript of the sentencing hearing demonstrates beyond cavil that the trial court had ordered Hafford to stay away from his wife *and* from the marital residence. In response to the trial court's inquiry of whether Hafford had understood the sentence, Hafford replied, "You said no contact with [Kandis]." The court immediately replied, "And stay away from her residence."

Next, as both parties agree, the trial court simply required that the children were to be exchanged between Hafford and Kandis at the grandmother's residence. The trial court did not order that the entirety of Hafford's visitation was to take place there.

Thus the trial court failed to record properly the sentence in its sentencing entry. This clerical error may be resolved by a nunc pro tunc entry to reflect what the court actually decided.

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Since the sentencing provisions ordered by the trial court were not error, we overrule the sole assignment of error, and we affirm the judgment of the trial court. But we remand the cause to the trial court for the limited purpose of correcting its judgment entry to properly reflect the sentence imposed.

Further, a certified copy of this judgment entry shall constitute 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., CUNNINGHAM and STAUTBERG, JJ.

To the clerk:

Enter upon the journal of the court on March 30, 2016
per order of the court _____.
Presiding Judge