

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

STATE OF OHIO,	:	APPEAL NO. C-160449
Plaintiff-Appellee,	:	TRIAL NO. 15CRB-1782
vs.	:	
JOSEPH HARRY HOFFMAN,	:	<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 Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.*

This is an appeal from a conviction for theft following a guilty plea. Joseph Harry Hoffman has appealed from the trial court's judgment entry finding him guilty of theft and ordering costs, restitution, and jail time. Because we conclude that the entry is not a final appealable order, we lack jurisdiction to determine Mr. Hoffman's appeal. Therefore, the appeal is dismissed.

Mr. Hoffman was indicted for receiving stolen property under R.C. 2913.51(A). On April 14, 2016, he pled guilty and was sentenced to 180 days in jail and ordered to pay restitution. However, because Mr. Hoffman disputed the amount of restitution, the court set a date for a hearing to determine the appropriate amount. *See R.C. 2929.28(A)(1).* On April 28, 2016, the court held that hearing and set the amount of restitution at \$5,500. Mr. Hoffman then appealed from the April 14 judgment entry.

To constitute a final appealable order under R.C. 2505.02, a judgment of conviction must satisfy the provisions of Crim.R. 32(C) and include: (1) the fact of

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conviction; (2) the sentence; (3) the judge's signature; and (4) the time stamp indicating the entry upon the journal by the clerk. *State v. Daniels*, 1st Dist. Hamilton No. C-140242, 2014-Ohio-5160, ¶ 6 citing *State v. Lester*, 130 Ohio St.3d 303, 2011-Ohio-5204, 958 N.E.2d 142, paragraph one of the syllabus. Further, only one document can constitute a final appealable judgment of conviction. *Daniels* at ¶ 7, citing *State v. Baker*, 119 Ohio St.3d 197, 2008-Ohio-3330, 893 N.E.2d 163, ¶ 17. The document Mr. Hoffman has appealed from includes (1) the finding of guilt, (2) the number of days and certain program eligibility in Mr. Hoffman's sentence, (3) the judge's signature, and (4) the entry on the journal by the clerk. However, it also includes a notation that a restitution hearing was set for a future date, which makes clear that the court had contemplated further proceedings. Restitution is a financial sanction that is part of a sentence, which means the amount of restitution must be included. R.C. 2929.28(A)(1); *In re Holmes*, 70 Ohio App.2d 75, 77, 434 N.E.2d 747 (1st Dist.1980); see *State v. Purnell*, 171 Ohio App.3d 446, 2006-Ohio-6160, 871 N.E.2d 613, ¶ 9 (1<sup>st</sup> Dist.).

Therefore, because the judgment entry Mr. Hoffman has appealed from does not contain the amount of restitution, it is not a final appealable order. Accordingly, we dismiss his appeal for lack of jurisdiction. See Ohio Constitution, Article IV, Section 3(B)(2); see, also, R.C. 2505.02.

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.

**MOCK, P.J., CUNNINGHAM and ZAYAS, JJ.**

To the clerk:

Enter upon the journal of the court on February 24, 2017  
per order of the court \_\_\_\_\_.

Presiding Judge