

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

STATE OF OHIO,	:	APPEAL NO. C-190649
	:	TRIAL NO. B-0010201-B
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
GERALD WATSON,	:	
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.

Defendant-appellant Gerald Watson presents on appeal a single assignment of error challenging the Hamilton County Common Pleas Court’s judgment overruling his 2019 “Motion for Resentencing Based on Void Judgment * * *.” We dismiss the appeal for lack of jurisdiction.

Watson was convicted in 2001 on multiple counts of aggravated robbery, robbery, and felonious assault and a single count of receiving stolen property. He unsuccessfully challenged his convictions on direct appeal and in a postconviction motion for a new trial. *State v. Watson*, 1st Dist. Hamilton No. C-010691, 2002-Ohio-4046; *State v. Watson*, 1st Dist. Hamilton No. C-081212 (Aug. 26, 2009).

In 2010, the trial court held a hearing to provide postrelease-control notification and correct the judgment of conviction to include a five-year mandatory period of

postrelease control. Watson did not appeal that judgment. But in 2019, he filed two motions seeking resentencing to impose postrelease control for each offense. In this appeal, he presents a single assignment of error challenging the common pleas court's judgment overruling the second of those motions, captioned "Motion for Resentencing Based on Void Judgment * * *." We do not reach the merits of that assignment of error, because we have no jurisdiction to review the judgment appealed.

Watson did not designate in his motion a statute or rule under which the relief sought might have been afforded, leaving the common pleas court to "recast" the motion "into whatever category necessary to identify and establish the criteria by which the motion should be judged." *State v. Schlee*, 117 Ohio St.3d 153, 2008-Ohio-545, 882 N.E.2d 431, ¶ 12 and syllabus. But the motion was not reviewable under any postconviction procedure provided by statute or rule. *See State v. Dardinger*, 1st Dist. Hamilton No. C-160467, 2017-Ohio-1525, ¶ 8-9. And the postrelease-control portions of Watson's sentences were not subject to correction under the jurisdiction to correct a void judgment. *See State v. Harper*, 160 Ohio St.3d 480, 2020-Ohio-2913, 159 N.E.3d 248, ¶ 4-5 and 41-43. Therefore, the common pleas court had no jurisdiction to grant the relief sought in the motion. *See State v. Criswell*, 1st Dist. Hamilton No. C-190531, 2020-Ohio-3793, ¶ 5-6 and 12-14.

Moreover, this court lacks jurisdiction to review the judgment overruling the motion. Article IV, Section 3(B)(2) of the Ohio Constitution confers upon an intermediate appellate court only "such jurisdiction as may be provided by law to review and affirm, modify, or reverse judgments or final orders of the courts of record inferior to the court of appeals within the district." The common pleas court's judgment overruling the motion is not a judgment of conviction and thus plainly not reviewable

under this court’s jurisdiction under R.C. 2953.02 or 2953.08 to review on direct appeal a criminal conviction. Because the motion was not reviewable by the common pleas court under the postconviction statutes, the judgment overruling the motion was not appealable under this court’s jurisdiction under R.C. 2953.23(B) to review an order granting or denying postconviction relief. Finally, the judgment overruling the motion did not constitute a “final order” as defined by R.C. 2505.02, for purposes of the grant of jurisdiction under R.C. 2505.03(A) to review and affirm, modify, or reverse a “final order, judgment or decree.” The entry was not made in a special statutory proceeding. *See* R.C. 2505.02(B)(2) and (A)(2). And because the common pleas court lacked jurisdiction to entertain the motion, the judgment overruling the motion did not have the effect of either determining an “action” or denying a “provisional remedy” in a proceeding ancillary to a pending action. *See* R.C. 2505.02(B)(1), (B)(2), and (B)(4)(a). *See also Criswell* at ¶ 7-11.

We, therefore, have no jurisdiction to review the common pleas court’s judgment overruling Watson’s “Motion for Resentencing Based on Void Judgment * * *.” Accordingly, we dismiss this appeal.

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.

BERGERON, P.J., WINKLER and BOCK, JJ.

To the clerk:

Enter upon the journal of the court on March 17, 2021,
per order of the court_____.

Administrative Judge