

COURT OF APPEALS
MUSKINGUM COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO	:	JUDGES:
	:	
	:	Hon. Sheila G. Farmer, P.J.
Plaintiff-Appellee	:	Hon. John W. Wise, J.
	:	Hon. Patricia A. Delaney, J.
-vs-	:	
	:	Case No. 10-CA-46
MELVIN FIELDS	:	
	:	
	:	
Defendant-Appellant	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Appeal from the Muskingum County Court of Common Pleas Case No. CR-2004-0300

JUDGMENT: AFFIRMED

DATE OF JUDGMENT ENTRY: December 10, 2010

APPEARANCES:

For Plaintiff-Appellee:

D. MICHAEL HADDOX
Muskingum County Prosecutor
27 N. 5th St.
Zanesville, Ohio 43701

For Defendant-Appellant:

MELVIN E. FIELDS, pro se
Muskingum County Jail
28 N. 4th St.
Zanesville, Ohio 43701

Delaney, J.

{¶1} Defendant-Appellant, Melvin Fields, appeals from the judgment of the Muskingum County Court of Common Pleas, revoking his post-release control. The State of Ohio is Plaintiff-Appellee.

{¶2} This case comes to us on the accelerated calender. App. R. 11. 1, which governs accelerated calender cases provides, in pertinent part:

{¶3} “(E) Determination and judgment on appeal.

{¶4} The appeal will be determined as provided by App.R. 11. 1. It shall be sufficient compliance with App.R. 12(A) for the statement of the reason for the court's decision as to each error to be in brief and conclusionary form.

{¶5} “The decision may be by judgment entry in which case it will not be published in any form.”

{¶6} This appeal shall be considered in accordance with the aforementioned rule.

STATEMENT OF THE CASE AND FACTS

{¶7} On October 27, 2004, Appellant entered a guilty plea to one count of aggravated robbery, a felony of the first degree, in violation of R.C. 2911.01(A)(1) and one count of theft, a misdemeanor of the first degree, in violation of R.C. 2913.02(A)(1).

{¶8} On December 30, 2004, the trial court sentenced Appellant to a prison term of four years. At sentencing, Appellant was notified that post-release control was mandatory for a maximum of five years. The court also notified Appellant of the consequences for violating the terms of his post-release control.

{¶9} Appellant was released from prison on October 16, 2008. He violated the terms of his post-release control and was sent back to prison on June 1, 2010, for 150 days. After being sent back to prison, Appellant filed a “Motion to Vacate Void Sentence and Order Immediate [sic] Release of the Defendant.” The trial court denied the motion, and Appellant now appeals, and raises one Assignment of Error:

{¶10} “I. THE TRIAL COURT WHEN IT DENIED THE DEFENDANT’S MOTION TO VACATE VOID SENTENCE AND ORDER IMMEDIATE RELEASE OF THE DEFENDANT, AND NOT ADHEARING TO THE MANDATED LAW OF THE OHIO SUPREME COURT SYLLABUS.” [SIC]

I.

{¶11} Pursuant to App. R. 11.1(E), Appellant’s assignment of error is overruled for the reason that the trial court properly advised Appellant of post-release control as well as the consequences for violating post-release control at his original sentencing hearing and as memorialized in the original judgment entry. See R.C. 2967.28.

{¶12} Moreover, should Appellant have wished to challenge whether he was properly informed of post-release control, the appropriate time to have done so would have been within thirty days of the original judgment entry.

{¶13} The judgment of the Muskingum County Court of Common Pleas is affirmed

By: Delaney, J.

Farmer, P.J. and

Wise, J. concur.

HON. PATRICIA A. DELANEY

HON. SHEILA G. FARMER

HON. JOHN W. WISE

IN THE COURT OF APPEALS FOR MUSKINGUM COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO	:	
	:	
Plaintiff-Appellee	:	
	:	
-vs-	:	JUDGMENT ENTRY
	:	
MELVIN E. FIELDS	:	
	:	
Defendant-Appellant	:	Case No. 10-CA-46
	:	

For the reasons stated in our accompanying Memorandum-Opinion on file, the judgment of the Muskingum County Court of Common Pleas is affirmed. Costs assessed to Appellant.

HON. PATRICIA A. DELANEY

HON. SHEILA G. FARMER

HON. JOHN W. WISE