

ORIGINAL

IN THE SUPREME COURT OF OHIO
Supreme Court Case Number 09 0897

STATE OF OHIO

Appellee

v.

LONDEN K. FISCHER

Appellant

On Appeal from the Summit
County Court of Appeals
Ninth Appellate District
Court of Appeals No. 24406

MERIT BRIEF OF APPELLEE
STATE OF OHIO

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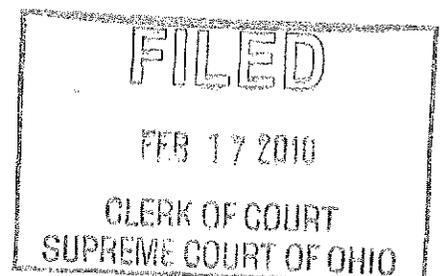
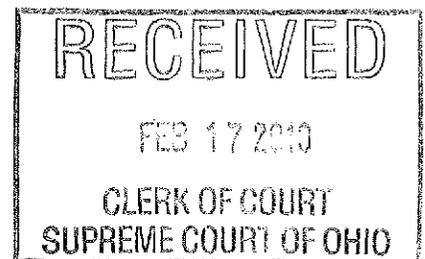


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STATEMENT OF THE CASE AND FACTS

On July 9, 2001, Londen Fischer ("Fischer") was indicted by the Summit County Grand Jury on three (3) counts of Aggravated Robbery, in violation of R.C. 2911.01(A)(1), with corresponding Firearm Specifications in accordance with R.C. 2941.145; two (2) counts of Aggravated Burglary, in violation of R.C. 2911.11(A)(2), with a corresponding Firearm Specification in accordance with R.C. 2941.145, one (1) count of Felonious Assault, R.C. 2903.11, with a corresponding Firearm Specification in accordance with R.C. 2941.145 and, one (1) count of Intimidation of Crime Victim or Witness, in violation of 2921.04, with a corresponding Firearm Specifications in accordance with R.C. 2941.145. Fischer pled not guilty to the indictment on July 11, 2001.

On September 19, 2001, Fischer was indicted on a supplemental count of Having Weapon While Under Disability, with a corresponding Firearm Specifications. Fischer pled not guilty to the supplemental indictment on September 21, 2001.

The case proceeded to jury trial on January 29, 2002. On February 1, 2002, the jury found Fischer guilty of the following charges: one (1) count of Aggravated Robbery with a corresponding Firearm Specification; two (2) counts of Aggravated Burglary with corresponding Firearm Specifications; one (1) count of Felonious Assault with a corresponding Firearm Specification; and, one (1) count of Having a Weapon While Under Disability with a corresponding Firearm Specification. Fischer was found not guilty of two (2) counts of Aggravated Robbery and one (1) count of Intimidation of Crime Victim or Witness.

On February 4, 2002, Fischer was sentenced to the mandatory three-year sentence on two of the Firearm Specifications, to be served consecutively. The remaining Firearm Specifications were merged.

Appellant was also sentenced to eight (8) years, as punishment for the crime of Aggravated Robbery, eight (8) years on each of the Aggravated Burglary convictions, seven (7) years for the Felonious Assault conviction, and one (1) year for the crime of Having a Weapon Under Disability, to be served concurrently to each other but consecutively to the Firearm Specifications, for an aggregate term of fourteen years in prison.

On February 28, 2002, Appellant filed a timely notice of appeal. On January 15, 2003, Appellant's convictions were affirmed. *State v. Fischer*, 9th Dist. App. No. 20988, 2003-Ohio-95.

On May 28, 2008, Fischer, filed a pro se Motion for Resentencing in the trial court. On August 6, 2008, the trial court resentenced Fischer to an aggregate sentence of fourteen (14) years on the counts for which he had been convicted, and advised Fischer regarding postrelease control. Fischer filed a timely notice of appeal after the resentencing.

On appeal, Fischer argued that because his original sentence was void, his first direct appeal was also void and that he therefore was not limited to raising issues solely relating to the resentencing. The Ninth District Court of Appeals affirmed and held that Fischer's first direct appeal was not invalid and the law-of-the-case doctrine precluded Fischer from raising trial issues in his subsequent appeal. *State v. Fischer* 181 Ohio App.3d 758, 2009-Ohio1491, at ¶5-8.

PROPOSITION OF LAW

A DIRECT APPEAL FROM A VOID SENTENCE IS A LEGAL NULLITY; THEREFORE, A CRIMINAL DEFENDANT'S APPEAL FOLLOWING A *BEZAK* RESENTENCING IS THE FIRST DIRECT APPEAL AS OF RIGHT FROM A VALID SENTENCE. *STATE V BEZAK*, 114 OHIO ST.3D 94, 2007-OHIO-3250.

LAW AND ARGUMENT

Fischer argues that a direct appeal from a void sentence is legal nullity and a defendant's appeal following resentencing is actually a defendant's first appeal as of right. Therefore, Fischer argues that, even though the appellate court reviewed the merits of the arguments that he had raised in his first direct appeal relating to his conviction, he now has the right to assert additional arguments relating to his conviction following his resentencing. The State disagrees with Fischer's proposition of law.

The State does not dispute that Fischer's original sentence lacked proper notice of postrelease control. And, although the State fundamentally disagrees that a sentence lacking postrelease control is void rather than voidable, the State does not dispute Fischer's assertion that, pursuant to the Supreme Court of Ohio's recent decisions, the sentencing decision was void since it lacked proper notice of postrelease control. The State does, however, disagree with Fischer's contention that the defect in the sentencing entry rendered Fischer's original direct appeal to be void.

The Supreme Court of Ohio has recently examined a number of case containing issues related to post release control. Most recently, in *State of Ohio v. Singleton* (2009), 2009-Ohio-6434, the Supreme Court of Ohio recently addressed the issue of whether a trial court should utilize the de novo sentencing procedures set forth in prior decisions of the Court or the remedial procedures codified in R.C. 2929.191, which became effective on July 11, 2006, when correcting a failure to properly impose postrelcase control. *Singleton* at ¶ 1.

In *Singleton*, the Court held that for sentences imposed prior to the July 11, 2006, the trial courts are to conduct de novo sentencing hearings in accordance with the prior decisions of the Supreme Court of Ohio; however, for cases decided after the effective date of the enactment of R.C. 2929.191, the trial courts are instead to use the statutory remedy promulgated by the legislature for trial courts to use to correct errors in the imposition of postrelease control. *Id.* Accordingly, in order to determine the proper remedy upon resentencing, a trial court must first look at the date of the original sentencing to determine the proper procedure to apply to correct an error in imposing postrelease control.

In the instant case, the trial court sentenced Fisher on February 4, 2002, prior to the effective date of R.C. 2929.191. Therefore, pursuant to the Ohio Supreme Court's decision in *Singleton*, the proper procedure for the trial court to use to correct the postrelease control error was for the trial court to conduct a de novo sentencing in accordance with the prior decisions of the Court. Fisher does not challenge the trial court's procedure in correcting the postrelease control error. Instead, he challenges whether the court of appeals lacked jurisdiction to hear Fisher's original direct appeal. As such, the question confronting the Supreme Court of Ohio in this case is whether the postrelease control error in Fischer's sentencing entry rendered both the original sentencing entry and the judgment in the direct appeal void.

Fischer contends that his original sentence was void pursuant to *State v. Bezak* (2007), 114 Ohio St.3d 94, 2007-Ohio-3250, at syllabus, because it did not include notice of postrelease control. He further argues that, due to the postrelease control defect, his initial direct appeal was also invalid. Therefore, he argues that his first valid direct appeal was actually the one he took following his resentencing and, as a result, he should be permitted to raise any and all trial issues cognizable on direct appeal. As noted supra, the State disagrees with Fisher's proposition of law.

The Supreme Court of Ohio has addressed many cases dealing with the consequences of a trial court's failure to adhere to the mandatory requirements of sentencing statutes, including Ohio's postrelease control statute. See, e.g. *State v. Singleton* (2009), 2009-Ohio-6434. And, in examining cases dealing with postrelease control, the Supreme Court of Ohio has repeatedly held that sentences that fail to impose a mandatory term of postrelease control are void rather than voidable. See e.g., *State of Ohio v. Boswell* (2009), 121 Ohio St.3d 575, 2009-Ohio-1577.

In *Boswell*, the defendant pleaded guilty to several charges and was sentenced to prison. *Boswell*, at ¶ 2. *Boswell* subsequently filed two motions for delayed appeal. Both of these motions were denied by the appellate court. *Boswell*, at ¶ 3.

Five years later, *Boswell* moved the court to vacate his plea based on defects in the notice of postrelease control. *Boswell*, at ¶ 3. The trial court granted *Boswell*'s motion to vacate his plea and the State subsequently appealed. *Boswell*, at ¶ 4. The appellate court affirmed. The State then appealed to the Supreme Court of Ohio. *Boswell*, at ¶ 4.

The Supreme Court of Ohio was confronted in *Boswell* for the first time with a case involving a sentence that failed to include mandatory postrelease control in which the defendant moved to vacate the plea. *Boswell*, at ¶ 6. In reaching its decision, the Court held that a motion to withdraw a guilty plea after a void sentence had been imposed must be treated as presentence motion rather than postsentence motion to vacate a guilty plea, and thus be freely and liberally granted. *Id.* at paragraph one of the syllabus.

Furthermore, in *Boswell*, the Supreme Court of Ohio discussed some of the recent cases that it had previously examined dealing with postrelease control, including *State v. Simpkins*, *State v. Bezak*, and *State ex rel. Cruzado v. Zaleski*, *infra*. These cases will be discussed in more detail below. A review of these cases, demonstrates that, although the Supreme Court of Ohio

has consistently held that a sentencing entry that lacks a mandatory term of postrelease control is void, the Court has held that, in some circumstances, including where there has been the completion of a sentence by the time the error has been found, it may be reasonable to find that defendant's expectation of finality in his sentence has become legitimate and must be respected.

For example, in *Hernandez v. Kelly* (2006), 108 Ohio St.3d 395, 2006-Ohio-126, the Supreme Court of Ohio granted a writ of habeas corpus and held that the parole board lacked authority to impose postrelease control because the trial court failed to notify the offender of postrelease control and the defendant had completed his entire sentence when the sentencing defect was discovered. *Hernandez*, at ¶ 6. The trial court erred in its sentencing journal entry by failing to notify Hernandez that he was subject to mandatory postrelease control. *Hernandez*, at ¶ 20.

In *Hernandez*, the defendant did not challenge the sentencing entry of the trial court; instead he challenged a decision of the Adult Parole Authority. *Hernandez*, at ¶ 12. The Supreme Court of Ohio held that the Adult Parole Authority was not authorized to put Hernandez on postrelease control and to subsequently sanction him for violating the terms of that control since the trial court's sentencing entry had failed to incorporate postrelease control. *Hernandez* at ¶ 32. The Supreme Court of Ohio therefore granted Hernandez's writ of habeas corpus and ordered that Hernandez be released from prison and from postrelease control. *Hernandez* at ¶ 32.

Subsequently, the Supreme Court of Ohio was again faced with a case dealing with a writ of prohibition in a case involving defective notice of postrelease control. In *State ex rel. Cruzado v. Zaleski*, the Court denied a petition seeking a writ of prohibition to vacate a

resentencing entry that imposed a mandatory period of postrelease control. *State ex rel. Cruzado v. Zaleski* (2006), 111 Ohio St.3d 353, 2006-Ohio-5795 at ¶ 1.

The writ in *Cruzado* sought to vacate a new sentencing entry which included a statutorily mandated period of postrelease control that was not included in the original sentencing entry. *Id.* at ¶ 1. The Court distinguished *Cruzado* from *Hernandez*, noting that unlike *Hernandez*, *Cruzado* had not yet completed his prison sentence and the trial court therefore did not patently and unambiguously lack jurisdiction to correct the sentence. *Id.* at ¶ 19-28, 32. As such, the trial court possessed the authority to correct its first sentencing entry because it was void as a result of the postrelease control error. *Id.* at ¶ 19-20.

Later, in *State v. Bezak* (2007), 114 Ohio St.3d 94, 2007-Ohio-3250, the Court was again confronted with an issue relating to defective notice of postrelease control. The defendant, *Bezak*, had already completed his prison sentence. Since *Bezak* had completed his entire term of incarceration, the Supreme Court of Ohio held that the trial court therefore was precluded from conducting a resentencing. ¶ 32.

Later, in *Simpkins*, the Supreme Court of Ohio was presented with the issue of whether the State was entitled to a new sentencing hearing to have postrelease control imposed on the defendant unless the defendant had completed his entire sentence. *State v. Simpkins* (2008), 117 Ohio St.3d 420, 2008-Ohio-1197. In *Simpkins* there had not been a direct appeal from the judge's sentencing error. *Simpkins*, at ¶ 9. The Court held that, in cases where an offender "is convicted of, or pleads guilty to, an offense for which postrelease control is required but not properly included in the sentence, the sentence is void, and the state is entitled to a new sentencing hearing to have postrelease control imposed upon the defendant unless the defendant has completed his sentence. *Id.*, at syllabus.

A review of these cases demonstrates that the Supreme Court of Ohio has carved out several exceptions to the rule that sentencings containing postrelease errors are contrary to law and void, thereby necessitating that the case be remanded for resentencing. See, e.g., *Hernandez* and *Bezak*, supra. As noted above, the *Boswell* case involved an offender who pleaded guilty and did not file a timely direct appeal. In *Simpkins*, there was a direct appeal from the judge's sentencing order. *Simpkins*, supra. And, in *Bezak*, the matter was remanded without a decision on the merits of the issues raised in the appeal. Additionally, the Court has held that sentencing entries issued after the effective date of the R.C. 2929.191 are voidable rather than void because of the corrective mechanism provided by the legislature. *Singleton*, supra.

The State asks this Court to distinguish the instant case from the prior cases decided by the Court as this case is factually distinguishable since it involves a defendant who was resentenced to correct a defect in postrelease control after an appellate decision had been rendered addressing the merits of the issues raised by the appellant in his direct appeal relating to his conviction. The vein of cases that previously have been decided by the Supreme Court of Ohio have dealt with defendants whose sentences were vacated and their cases remanded for resentencing to correct the errors in postrelease control. This case is different as an appellate decision had been reached. The State argues that an appellate decision on the merits of the issues raised in a direct appeal affect the finality of the decision.

In *Singleton*, the Court recognized that the legislature's enactment of R.C. 2929.191 altered its case law characterization of a sentencing lacking postrelease control as a nullity and provided a mechanism to correct the defect in sentences imposed after the effective date of the statute by adding postrelease control any time prior to the defendant's release from prison. *Id.*, at ¶ 26-27. The Court further held in *Singleton* that, on or after the statute's effective date, an

offender can have no legitimate expectation of the finality in a decision rendered defective by the trial court's failure to properly impose a mandatory term of postrelease control because the offender is charged with knowledge of the fact that his sentence is legally incomplete and that R.C. 2929.191 provides a statutory mechanism to correct the defect. *Singleton*, at ¶ 33.

The Supreme Court has held previously that when an offender has completed his sentence, the trial court cannot correct the defect by ordering resentencing of the offender to correct the postrelease control defect. See, e.g., *Hernandez* and *Bezak*. In effect, the Court's decisions render a sentencing entry that was initially void due to a defect in postrelease control to later be transformed into a valid sentencing entry once the offender has completed his term of incarceration.

The State argues that when an offender files a direct appeal and the reviewing court reaches a decision on the merits of that appeal relating to the offender's conviction, an offender should be charged with knowledge of the fact that his conviction judgment is legally incomplete and the offender's appellate rights on appeal following resentencing to correct defects in postrelease control are thereby limited to issues solely relating to the resentencing.

As such, the State disagrees with Fischer's argument that there is no reasonable expectation of finality in a void sentence and that there was no expectation of finality attached to his first appeal. Fischer's argument that the lack of finality in his sentencing entry "bled" into his original direct appeal thereby rendering the direct appeal to be invalid lacks merit and should be overruled.

The State notes that, in *Simpkins*, the Supreme Court of Ohio held that when a sentence is unlawful and thus void, there can be no reasonable, legitimate expectation of finality. *Simpkins*, at ¶36. The Court noted, however, that "[i]n some circumstances, including the completion of a

sentence, it may be reasonable to find that defendant's expectation of finality in his sentence has become legitimate and must be respected. *Simpkins*, at ¶38. The State argues that this is one of those circumstances.

It is reasonable to find that Fischer's expectation of finality in his sentence had become legitimate once the appellate court rendered its decision on the merits of Fischer's direct appeal. There must be finality in criminal cases. If this Court finds, as Fischer requests, that the sentencing entry was a mere nullity that rendered his direct appeal void, the trial court's in Ohio will be faced with many difficult consequences.

As noted by Justice Lanzinger in her dissent in *Singleton*, a sentence that is null and void impairs the underlying conviction as a final appealable order and a defendant may therefore be able to appeal his underlying conviction after the trial court imposes a nonvoid sentence long after the time for filing a direct appeal as elapsed. *Singleton*, at ¶ 48. Additionally, if the Court accepts Fischer's proposition of law, any offender serving a void sentence could potentially be entitled to a writ of habeas corpus. Moreover, offenders would be eligible to move the trial court to vacate their prior pleas of no contest or guilty and to have those motions freely and liberally granted. *Singleton*, at ¶ 48.

A finding that Fischer's original sentence was void and that the original appellate decision was thereby void will lead to unjust results. Furthermore, to allow an offender to collaterally attack after a decision has been reached on the merits of an appeal undermines the principles of res judicata. The application of the law-of-the case doctrine in this case and cases where an appellate court has reached a decision relating to the underlying conviction will not lead to unjust results.

In this case, Fischer filed a direct appeal and received his appeal as of right relating to the underlying conviction. Subsequently, Fischer discovered a defect in the postrelease notice contained in the sentencing entry. The trial court corrected the sentencing entry. Fischer then filed another appeal. The appellate court reviewed the issues raised by Fischer relating to the resentencing.

Based on the foregoing, it is reasonable to find that Fischer's expectation of finality in his conviction had become legitimate and must be respected. The Court of Appeals accepted Fischer's direct appeal and issued a decision on the merits raised by the appellant relating to his conviction. The sentencing entry was not tentative. It did, however, contain a defect that was subsequently corrected by the trial court. The sentencing entry was final for purposes of issues relating to the conviction that were raised by Fischer on his direct appeal.

Fischer should not be permitted to benefit from an error in the sentencing entry by being allowed to continue to litigate issues relating to his conviction which he could have and should have raised on his direct appeal. Furthermore, to allow Fischer to continue to litigate his issues that he could have previously raised eviscerate the doctrine of res judicata and will open the flood gates for offenders to file new direct appeals in every case where a reviewing court has already reached the merits of the errors previously assigned by offenders relating to their conviction. This result will preclude these cases from reaching any finality. As such, the State respectfully requests that this Court affirm the judgment of the Ninth District Court of Appeals.

Furthermore, the State argues the Supreme Court of Ohio's holding in *State ex rel. Culgan v. Medina Cty. Court of Common Pleas*, 119 Ohio St.3d 535, 2008-Ohio-4609, is inapplicable to the instant case and is inapplicable to issues relating to postrelease control. In *Culgan* the defendant contended that the court of appeals had erred in denying his writs of

mandamus and procedendo to compel the trial court to issue a sentencing entry that complied with Crim.R. 32(C) and would therefore also constitute a final appealable order. The *Culgan* case did not involve a defect in the notice of postrelease control.

As such, the State contends that the Ninth District erred in overruling its precedent in *Fischer* by relying on *Culgan* to reach the conclusion that, regardless of whether a defendant had already appealed his conviction, if the order from which the first appeal was taken was not final and appealable, the defendant is entitled to a new sentencing entry that itself can be appealed. *State v. Harmon*, (Sept. 2, 2009), Ohio App. 9th Dist. No 24495, 2009-Ohio-4512, at ¶ at 6-8; appeal allowed by *State v. Harmon*, 920 N.E.2d 372, 2010-Ohio-188 (Ohio Jan 27, 2010).

CONCLUSION

Pursuant to the argument offered, the State respectfully contends that the judgment of the Ninth District Court of Appeals should be affirmed.

Respectfully submitted,

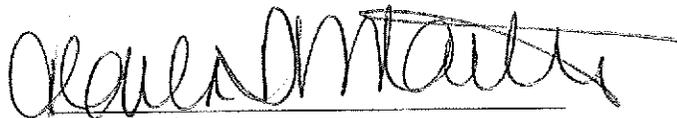
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PROOF OF SERVICE

I hereby certify that a copy of the foregoing Merit Brief was sent by regular U.S. Mail to Claire R. Cahoon, Assistant State Public Defender, Office of the Ohio Public Defender, 250 East Broad Street, Suite 1400, Columbus, Ohio 43215, on this 16th day of February, 2010.

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APPENDIX

Baldwin's Ohio Revised Code Annotated CurrentnessTitle XXIX. Crimes--Procedure (Refs & Annos)Chapter 2929. Penalties and Sentencing (Refs & Annos)

Felony Sentencing

→ **2929.191 Correction to judgment of conviction; post-release supervision**

(A)(1) If, prior to the effective date of this section, a court imposed a sentence including a prison term of a type described in division (B)(3)(c) of section 2929.19 of the Revised Code and failed to notify the offender pursuant to that division that the offender will be supervised under section 2967.28 of the Revised Code after the offender leaves prison or to include a statement to that effect in the judgment of conviction entered on the journal or in the sentence pursuant to division (F)(1) of section 2929.14 of the Revised Code, at any time before the offender is released from imprisonment under that term and at a hearing conducted in accordance with division (C) of this section, the court may prepare and issue a correction to the judgment of conviction that includes in the judgment of conviction the statement that the offender will be supervised under section 2967.28 of the Revised Code after the offender leaves prison.

If, prior to the effective date of this section, a court imposed a sentence including a prison term of a type described in division (B)(3)(d) of section 2929.19 of the Revised Code and failed to notify the offender pursuant to that division that the offender may be supervised under section 2967.28 of the Revised Code after the offender leaves prison or to include a statement to that effect in the judgment of conviction entered on the journal or in the sentence pursuant to division (F)(2) of section 2929.14 of the Revised Code, at any time before the offender is released from imprisonment under that term and at a hearing conducted in accordance with division (C) of this section, the court may prepare and issue a correction to the judgment of conviction that includes in the judgment of conviction the statement that the offender may be supervised under section 2967.28 of the Revised Code after the offender leaves prison.

(2) If a court prepares and issues a correction to a judgment of conviction as described in division (A)(1) of this section before the offender is released from imprisonment under the prison term the court imposed prior to the effective date of this section, the court shall place upon the journal of the court an entry nunc pro tunc to record the correction to the judgment of conviction and shall provide a copy of the entry to the offender or, if the offender is not physically present at the hearing, shall send a copy of the entry to the department of rehabilitation and correction for delivery to the offender. If the court sends a copy of the entry to the department, the department promptly shall deliver a copy of the entry to the offender. The court's placement upon the journal of the entry nunc pro tunc before the offender is released from imprisonment under the term shall be considered, and shall have the same effect, as if the court at the time of original sentencing had included the statement in the sentence and the judgment of conviction entered on the journal and had notified the offender that the offender will be so supervised regarding a sentence including a prison term of a type described in division (B)(3)(c) of section 2929.19 of the Revised Code or that the offender may be so supervised regarding a sentence including a prison term of a type described in division (B)(3)(d) of that section.

(B)(1) If, prior to the effective date of this section, a court imposed a sentence including a prison term and failed to notify the offender pursuant to division (B)(3)(e) of section 2929.19 of the Re-

vised Code regarding the possibility of the parole board imposing a prison term for a violation of supervision or a condition of post-release control or to include in the judgment of conviction entered on the journal a statement to that effect, at any time before the offender is released from imprisonment under that term and at a hearing conducted in accordance with division (C) of this section, the court may prepare and issue a correction to the judgment of conviction that includes in the judgment of conviction the statement that if a period of supervision is imposed following the offender's release from prison, as described in division (B)(3)(c) or (d) of section 2929.19 of the Revised Code, and if the offender violates that supervision or a condition of post-release control imposed under division (B) of section 2967.131 of the Revised Code the parole board may impose as part of the sentence a prison term of up to one-half of the stated prison term originally imposed upon the offender.

(2) If the court prepares and issues a correction to a judgment of conviction as described in division (B)(1) of this section before the offender is released from imprisonment under the term, the court shall place upon the journal of the court an entry nunc pro tunc to record the correction to the judgment of conviction and shall provide a copy of the entry to the offender or, if the offender is not physically present at the hearing, shall send a copy of the entry to the department of rehabilitation and correction for delivery to the offender. If the court sends a copy of the entry to the department, the department promptly shall deliver a copy of the entry to the offender. The court's placement upon the journal of the entry nunc pro tunc before the offender is released from imprisonment under the term shall be considered, and shall have the same effect, as if the court at the time of original sentencing had included the statement in the judgment of conviction entered on the journal and had notified the offender pursuant to division (B)(3)(e) of section 2929.19 of the Revised Code regarding the possibility of the parole board imposing a prison term for a violation of supervision or a condition of post-release control.

(C) On and after the effective date of this section, a court that wishes to prepare and issue a correction to a judgment of conviction of a type described in division (A)(1) or (B)(1) of this section shall not issue the correction until after the court has conducted a hearing in accordance with this division. Before a court holds a hearing pursuant to this division, the court shall provide notice of the date, time, place, and purpose of the hearing to the offender who is the subject of the hearing, the prosecuting attorney of the county, and the department of rehabilitation and correction. The offender has the right to be physically present at the hearing, except that, upon the court's own motion or the motion of the offender or the prosecuting attorney, the court may permit the offender to appear at the hearing by video conferencing equipment if available and compatible. An appearance by video conferencing equipment pursuant to this division has the same force and effect as if the offender were physically present at the hearing. At the hearing, the offender and the prosecuting attorney may make a statement as to whether the court should issue a correction to the judgment of conviction.

CREDIT(S)

(2006 H 137, eff. 7-11-06)