

**IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
LAKE COUNTY, OHIO**

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2017-L-119
DAVID V. ROCK, JR.,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Lake County Court of Common Pleas.
Case No. 14 CR 000525.

Judgment: Appeal dismissed.

Charles E. Coulson, Lake County Prosecutor, and *Teri Daniel*, Assistant Prosecutor, Lake County Administration Building, 105 Main Street, P.O. Box 490, Painesville, OH 44077 (For Plaintiff-Appellee).

David V. Rock, Jr., pro se, PID: A663-040, Trumbull Correctional Institution, P.O. Box 901, 5701 Burnett Road, Leavittsburg, OH 44430 (Defendant-Appellant).

TIMOTHY P. CANNON, J.

{¶1} Appellant, David V. Rock, Jr., appeals from the August 30, 2017 judgment of the Lake County Court of Common Pleas, denying his motion for reconsideration and motion for change of venue. For the following reasons, the appeal is dismissed.

{¶2} The present appeal stems from the March 30, 2015 judgment of the Lake County Court of Common Pleas convicting appellant of one count of operating a vehicle under the influence (“OVI”), a third-degree felony, in violation of R.C. 4511.19(A)(1)(a)

and an accompanying R.C. 2941.1413 specification for having been convicted of five or more OVI offenses within the previous twenty years. Subsequently, appellant has filed several postconviction motions and appeals. See *State v. Rock*, 11th Dist. Lake No. 2015-L-047, 2015-Ohio-4639; *State v. Rock*, 11th Dist. Lake No. 2016-L-011, 2016-Ohio-8516; *State v. Rock*, 11th Dist. Lake No. 2017-L-010, 2017-Ohio-7294; *State v. Rock*, 11th Dist. Lake No. 2016-L-118, 2017-Ohio-7955.

{¶3} The record reflects that appellant filed a motion to withdraw his guilty plea pursuant to Crim.R. 32.1 on May 16, 2017, which the trial court denied on July 19, 2017. No appeal from that judgment was taken.

{¶4} On July 31, 2017, appellant filed a motion for reconsideration, and on August 8, 2017, appellant filed a motion for change of venue with the trial court. The court denied both motions in an order filed August 30, 2017. Appellant filed a notice of appeal from that order on September 27, 2017.

{¶5} The Ohio Constitution grants courts of appeals “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[.]” Article IV, Section 3(B)(2). “An appellate court can review only final orders, and without a final order, an appellate court has no jurisdiction.” *Supportive Solutions, L.L.C. v. Electronic Classroom of Tomorrow*, 137 Ohio St.3d 23, 2013-Ohio-2410, ¶10 (citations omitted).

{¶6} A trial court’s order denying a post-sentence motion to withdraw a guilty plea pursuant to Crim.R. 32.1 is a final, appealable order. *State v. Erich*, 11th Dist. Ashtabula No. 2016-A-0056, 2017-Ohio-8528, ¶12, citing *State v. Damron*, 4th Dist. Scioto No. 10CA3375, 2011-Ohio-165, ¶7, citing *State v. Kramer*, 10th Dist. Franklin No.

03AP-633, 2004-Ohio-2646, ¶3-5. A motion for reconsideration of a final, appealable order is a nullity. *Pitts v. Ohio Dept. of Transp.*, 67 Ohio St.2d 378, 379; see also *State v. Cox*, 11th Dist. Trumbull No. 2007-T-0042, 2007-Ohio-4278, ¶3. “Consequently, judgments ruling on motions for reconsideration are a nullity and cannot be appealed.” *Estate of Andolsek*, 11th Dist. No. 2017-L-011, 2017-Ohio-893, ¶2, citing *Pitts, supra*, at 381. Therefore, the trial court’s August 30, 2017 order denying appellant’s motion to reconsider the denial of his post-sentence Crim.R. 32.1 motion is a nullity and cannot be appealed.

{¶7} Regarding appellant’s motion for change of venue, we note there is no case in the trial court to which this motion would apply. Even if there had been a case pending, an order denying a motion for change of venue is not a final, appealable order. *Gen. Elec. Capital Corp. v. Golf Club of Dublin, L.L.C.*, 5th Dist. Delaware No. 09 CAE 12 0107, 2010-Ohio-2143, ¶43 (citations omitted).

{¶8} Because the trial court’s August 30, 2017 order is not a final, appealable order, this court is without jurisdiction to consider the present appeal.

{¶9} For the foregoing reasons, the appeal is dismissed.

CYNTHIA WESTCOTT RICE, P.J., concurs,

THOMAS R. WRIGHT, J., concurs in judgment only.