

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

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|----------------------|---|-----------------------------|
| STATE OF OHIO, | : | MEMORANDUM OPINION |
| Plaintiff-Appellee, | : | |
| - vs - | : | CASE NO. 2020-P-0048 |
| WALTER E. REYES, | : | |
| Defendant-Appellant. | : | |

Criminal Appeal from the Portage County Court of Common Pleas, Case No. 2009 CR 00623.

Judgment: Appeal dismissed.

Victor V. Vigluicci, Portage County Prosecutor, and *Pamela J. Holder*, Assistant Prosecutor, 241 South Chestnut Street, Ravenna, Ohio 44266 (For Plaintiff-Appellee).

Walter E. Reyes, pro-se, A590-238, Richland Correctional Institution, 1001 Olivesburg Road, P.O. Box 8107, Mansfield, Ohio 44905 (Defendant-Appellant).

THOMAS R. WRIGHT, J.

{¶1} Appellant, Walter E. Reyes, appeals the trial court’s May 6, 2020 decision overruling a nonexistent motion for judicial release. We dismiss.

{¶2} Reyes pleaded guilty to four counts of rape and one count of violating a protective order in June 2010. He was sentenced to an aggregate prison term of 30 years and labeled a Tier III sex offender. *State v. Reyes*, 11th Dist. Portage No. 2015-P-0009, 2015-Ohio-5344, 55 N.E.3d 485, ¶ 2.

{¶3} On April 29, 2020, Reyes moved the trial court to re-enter its original sentencing entry. He did not move for judicial release. Seven days later the trial court issued the appealed judgment which states in its entirety: “The Defendant’s Motion for Judicial Release is denied without a hearing. It is so ordered.”

{¶4} The parties urge us to construe the appealed judgment as denying Reyes’ motion to re-enter sentence and conclude that the trial court simply mischaracterized its ruling. While that may be, it is not the only possibility and far from a certainty. Because it is unclear, we decline and construe the judgment consistent with what it purports to adjudicate.

{¶5} A judgment denying judicial release is not appealable. R.C. 2502.02(B)(1); *State v. Ingram*, 10th Dist. Franklin No. 03AP-149, 2003-Ohio-5380, ¶ 6; *State v. Greene*, 2d Dist. Greene No. 02-CA-17, 2002-Ohio-2595, *1; *State v. Headley*, 11th Dist. Trumbull No. 2008-T-0126, 2009-Ohio-402, ¶ 4. Moreover, the appealed judgment does not decide the motion to re-enter sentence, which remains pending.

{¶6} The appeal is dismissed for lack of a final appealable order.

CYNTHIA WESTCOTT RICE, J.,

MARY JANE TRAPP, J.,

concur.