

COURT OF APPEALS
MUSKINGUM COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO	:	JUDGES:
	:	Hon. W. Scott Gwin, P.J.
Plaintiff - Appellee	:	Hon. Earle E. Wise, J.
	:	Hon. Craig R. Baldwin, J.
-vs-	:	
	:	
JOHN J. CAMPFIELD, JR.	:	Case No. CT2016-0064
	:	
Defendant - Appellant	:	<u>OPINION</u>

CHARACTER OF PROCEEDING:	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2016-0316
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JUDGMENT:	Affirmed
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DATE OF JUDGMENT:	March 24, 2017
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APPEARANCES:

For Plaintiff-Appellee

D. MICHAEL HADDOX
Prosecuting Attorney

By: GERALD V. ANDERSON II
Assistant Prosecuting Attorney
Muskingum County, Ohio
27 North Fifth Street, PO Box 189
Zanesville, Ohio 43702-0189

For Defendant-Appellant

BENJAMIN W. WHITACRE
Micheli, Baldwin, Northrup LLP
3808 James Court, Suite 2
Zanesville, Ohio 43701

Baldwin, J.

{¶1} Defendant-appellant John Campfield, Jr. appeals his sentence from the Muskingum County Court of Common Pleas. Plaintiff-appellee is the State of Ohio.

STATEMENT OF THE FACTS AND CASE

{¶2} On October 12, 2016, the Muskingum County Grand Jury indicted appellant on one count each of breaking and entering in violation of R.C. 2911.13(A), possession of criminal tools in violation of R.C. 2923.24(A), and vandalism in violation of R.C. 2909.05(B)(1)(a), all felonies of the fifth degree. At his arraignment on October 19, 2016, appellant entered a plea of not guilty to the charges.

{¶3} Subsequently, on November 23, 2016, appellant withdrew his former not guilty plea and entered a plea of guilty to all of the charges. At the November 23, 2016 sentencing hearing, appellant's counsel argued, in relevant part, as follows:

As for his post-release control, we would argue the State versus Kepler case¹, which hopefully this Court is aware of. It's out of this court actually. I think, although it's currently being reviewed by the Supreme Court, I would indicate that the Kepler case states that PRC would not be permitted to be imposed in this case because it did not [in the Entry in Case No. 2012-0043] advise the defendant that the parole board could impose the certain prison terms upon him. The language that was stated in the Kepler case is exactly the language stated.

{¶4} Transcript at 13.

¹ The complete citation is *State v. Kepler*, 5th Dist. Muskingum No. CT2015-0021, 2015-Ohio-3291.

{¶5} As memorialized in an Entry filed on November 28, 2016, appellant was sentenced to an aggregate prison sentence of seven (7) months. The trial court, in its Entry, found that appellant was on post release control in Case No. CR2012-0043 at the time of the commission of the offenses in the case sub judice. The trial court terminated appellant's period of post release control in such case and ordered that appellant "serve the remainder of his post release control; said sentence shall be served mandatory consecutive to the sentence imposed herein." The trial court notified appellant that post release control was optional in the case sub judice for up to three years.

{¶6} Appellant now appeals from the November 23, 2016 Entry, raising the following assignment of error on appeal:

{¶7} THE TRIAL COURT ERRED IN IMPOSING POST RELEASE CONTROL SANCTIONS UPON THE DEFENDANT.

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{¶8} Appellant, in his sole assignment of error, argues that the trial court erred by imposing post release control sanctions on appellant.

{¶9} Appellant, in the case sub judice, specifically argues that the trial court, in the sentencing Entry in Case No. CR2012-0043, did not correctly "set forth the mandatory or discretionary nature of a post release control sanction or authorize the specific sanctions for any violation." Appellant contends that, for such reason, the post release control portion of appellant's sentence in such case was void and appellant "should not and cannot be sanctioned for committing a new felony while on unenforceable, void post release control sanctions."

{¶10} However, the Sentencing Entry in CR2012-0043 is not contained in the record on appeal. Although appellant attached a noncertified copy of the Sentencing Entry in such case to his brief on appeal, “a reviewing court cannot add matter to the record that was not part of the trial court's proceedings and then decide the appeal based on the new matter.” *McAuley v. Smith*, 82 Ohio St.3d 393, 396, 696 N.E.2d 572 (1998). See also *State v. Wainwright*, 8th Dist. No. 101210, 2015-Ohio-677. Accordingly, we are unable to consider appellant’s argument about whether post release control was properly imposed in Case No. CR2012-0043.

{¶11} Appellant’s sole assignment of error is, therefore, overruled.

{¶12} Accordingly, the judgment of the Muskingum County Court of Common Pleas is affirmed.

By: Baldwin, J.

Gwin, P.J. and

Wise, Earle, J. concur.