

STATE OF OHIO)
)ss:
COUNTY OF LORAIN)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

STATE OF OHIO

C.A. No. 08CA009371

Appellee

v.

CHRISTOPHER HINTON

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF LORAIN, OHIO
CASE No. 05CR067017

Appellant

DECISION AND JOURNAL ENTRY

Dated: June 30, 2009

MOORE, Presiding Judge.

{¶1} Appellant, Christopher Hinton, appeals from the decision of the Lorain County Court of Common Pleas. This Court dismisses the appeal for lack of a final, appealable order.

I

{¶2} On February 16, 2005, Appellant, Christopher Hinton, was indicted on one count of possession of cocaine, a felony of the first degree. On September 27, 2005, Hinton pled guilty to the sole charge. On June 2, 2006, Hinton was sentenced to four years of incarceration.

{¶3} On March 25, 2008, Hinton moved this Court for leave to file a delayed appeal. On May 6, 2008, this Court granted Hinton leave to file his appeal. Hinton filed his appellate brief on July 29, 2008. This Court dismissed the appeal on August 12, 2008. This Court reinstated Hinton’s appeal on September 9, 2008. Hinton has raised three assignments of error for our review.

II

ASSIGNMENT OF ERROR I

“THE TRIAL COURT COMMITTED REVERSIBLE ERROR IN ACCEPTING [HINTON’S] GUILTY PLEA ON THE GROUNDS THAT THE TRIAL COURT FAILED TO COMPLY WITH CRIM.R. 11 DURING [HINTON’S] PLEA COLLOQUY BY NOT ADVISING [HINTON] THAT HIS SENTENCE WOULD INCLUDE A FIVE-YEAR MANDATORY TERM OF POST[-]RELEASE CONTROL[.]”

ASSIGNMENT OF ERROR II

“THE TRIAL COURT ERRED BY ACCEPTING [HINTON’S] GUILTY PLEA BUT FAILING TO FIND [HINTON] GUILTY.”

ASSIGNMENT OF ERROR III

“THE TRIAL COURT COMMITTED REVERSIBLE ERROR WHEN SENTENCING [HINTON] BY CONSIDERING MATTERS CONTRARY TO LAW AND BY FAILING TO SENTENCE [HINTON] TO A TERM OF POST-RELEASE CONTROL.”

{¶4} In his first assignment of error, Hinton argues that the trial court erred in accepting his guilty plea on the grounds that it failed to comply with Crim.R. 11 during his plea colloquy by not advising him that his sentence would include a mandatory five-year term of post-release control. In his second assignment of error, Hinton asserts that the trial court erred by accepting his guilty plea but failing to find him guilty. In his third assignment of error, Hinton argues that the trial court erred when it imposed his sentence because it considered matters contrary to law and failed to sentence him to a term of post-release control. As we further explain herein, the trial court’s journal entry imposing Hinton’s sentence does not constitute a final, appealable order under R.C. 2505.02.

{¶5} The Ohio Constitution limits an appellate court’s jurisdiction to the review of final judgments of lower courts. Section 3(B)(2), Article IV. Accordingly, this Court has jurisdiction to review only final and appealable orders. See *Harkai v. Scherba Industries, Inc.*

(2000), 136 Ohio App.3d 211, 219. “For a judgment to be final and appealable, the requirements of R.C. 2505.02 and Civ.R. 54(B), if applicable, must be satisfied.” (Citation omitted.) *Konstand v. Barberton*, 9th Dist. No. 21651, 2003-Ohio-7187, at ¶4.

{¶6} In *State v. Baker*, 119 Ohio St.3d 197, 2008-Ohio-3330, at ¶19, the Supreme Court held that the judgment of conviction “must include the sentence and the means of conviction, whether by plea, verdict, or finding by the court, to be a final appealable order under R.C. 2505.02.” Here, the journal entry setting forth the judgment of conviction was a form journal entry requiring the judge to indicate either that Hinton “plead guilty” or was “found guilty” of possession of cocaine. Neither option was selected. As the judgment of conviction does not indicate the means of conviction, but merely states that “Defendant appeared in Court for sentencing after having plead guilty to/been found guilty of the following charge(s)”, it fails to constitute a final, appealable order under R.C. 2505.02.

III.

{¶7} Hinton’s assignments of error are not addressed. This Court lacks jurisdiction over the appeal. The appeal, therefore, is dismissed.

Appeal dismissed.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(E). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

CARLA MOORE
FOR THE COURT

CARR, J.
DICKINSON, J.
CONCUR

APPEARANCES:

JILL R. FLAGG, Attorney at Law, for Appellant.

DENNIS P. WILL, Prosecuting Attorney, and BILLIE JO BELCHER, Assistant Prosecuting Attorney, for Appellee.