[Cite as *State v. Evans*, 2010-Ohio-2514.]

STATE OF OHIO	)	IN THE COURT OF APPEALS
	)ss:	NINTH JUDICIAL DISTRICT
COUNTY OF MEDINA	)	

STATE OF OHIO Appellee v. MICHAEL L. EVANS Appellant	C.A. No. 09CA0102-M APPEAL FROM JUDGMENT ENTERED IN THE COURT OF COMMON PLEAS COUNTY OF MEDINA, OHIO CASE No. 06CR0341

DECISION AND JOURNAL ENTRY

Dated: June 7, 2010

MOORE, Judge.

{¶1} Appellant, Michael L. Evans, acting pro se, appeals from the judgment of the Medina County Court of Common Pleas. This Court affirms.

I.

{¶2} On March 26, 2007, a jury found Evans guilty of several first- and second-degree felony offenses. On May 4, 2007, the trial court sentenced Evans to 30 years in prison. On July 18, 2007, during the pendency of his direct appeal, the trial court issued a new sentencing entry nunc pro tunc in order to comply with Crim.R. 32(C). This Court allowed Evans to supplement the record with the new entry and subsequently affirmed his conviction. *State v. Evans*, 9th Dist. No. 07CA0057-M, 2008-Ohio-4772.

{¶3} On November 30, 2009, Evans filed a "petition to vacate and/or setaside [sic] sentence." Evans contended that he was entitled to a de novo sentencing hearing. Interestingly, Evans also noted that R.C. 2929.191 provides a procedure to correct sentences that improperly

imposed postrelease control. Evans' overriding concern, however, was that his sentence was void and that the trial court must order a de novo resentencing hearing "to include all mitigation and voir dire components" and at which Evans would be present.

{¶4} On December 2, 2009, the trial court overruled the motion.

{¶5} Evans timely appealed, raising a single assignment of error for our review.

II.

ASSIGNMENT OF ERROR

"TRIAL COURT COMMITTED PLAIN ERROR DENYING [EVANS] PROPER DUE PROCESS OF LAW PURSUANT TO THE UNITED STATES CONSTITUTION'S FOURTH AND FOURTEENTH AMENDMENTS AND OHIO CONSTITUTION, ARTICLE I, SECTIONS 2, 5, AND 10."

{¶6} In his assignment of error, Evans contends that the trial court committed plain error in failing to properly sentence him with regard to postrelease control. Evans contends that his sentence must be vacated and the trial court must properly resentence him in compliance with R.C. 2967.28(B)(1). Evans further contends that resentencing is the only manner in which the trial court can provide him with a final, appealable order. We disagree.

{¶7} There is no doubt that the nunc pro tunc sentencing entry from July 18, 2007, fails to properly impose postrelease control. Evans' appellate brief, filed on January 28, 2010, fails to account for the holding in *State v. Singleton*, 124 Ohio St.3d 173, 2009-Ohio-6434. On December 22, 2009, the Supreme Court of Ohio released *Singleton*. In *Singleton*, the Supreme Court held that for sentences imposed after July 11, 2006, the failure of the trial court to properly provide notification of postrelease control does not result in a void sentence. Id. at ¶27. Instead, the trial court "may correct those sentences in accordance with the procedures set forth in [R.C. 2929.191(C)]." Id. at ¶35. Evans' sentence was imposed after July 11, 2006. Accordingly,

Evans' sentence is not void and the trial court did not err in overruling Evans' motion to vacate the sentence.

{¶8} Evans' assignment of error is overruled.

III.

{¶9} Evans' assignment of error is overruled. The judgment of the Medina County Court of Common Pleas is affirmed.

Judgment affirmed.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Medina, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

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

BELFANCE, P. J.
CARR, J.
CONCUR

APPEARANCES:

MICHAEL L. EVANS, pro se, Appellant.

DEAN HOLMAN, Prosecuting Attorney, and RUSSELL A. HOPKINS, Assistant Prosecuting Attorney, for Appellee.