

[Cite as *State v. Campbell*, 2003-Ohio-3236.]

IN THE COURT OF APPEALS FOR CHAMPAIGN COUNTY, OHIO

STATE OF OHIO :

Plaintiff-Appellee : C.A. CASE NO. 02CA34

vs. : T.C. CASE NO. 98CR169

99CR127

EARL D. CAMPBELL :

Defendant-Appellant :

. . . . .

O P I N I O N

Rendered on the 20th day of June, 2003.

. . . . .

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GRADY, J.

{¶1} On February 8, 2002, the court of common pleas terminated the community control sanctions the court previously had imposed on Defendant-Appellant, Earl D. Campbell, and ordered a term of incarceration. Consistent with a prior order of January 31, 2001, in which the court had established those community control sanctions, the court's February 8, 2002 order denied Campbell the prison term reduction benefits of R.C. 2967.191 with respect to the term of incarceration that order

imposed.

{¶2} Campbell took no appeal from the February 8, 2002 order. On October 1, 2002, Campbell filed a motion asking the court to "correct" its February 8, 2002 order, nunc pro tunc, so as to allow him the benefits of R.C 2967.191 with respect to the term he was serving. The court denied Campbell's motion on October 10, 2002. Campbell filed a timely notice of appeal from that order on October 29, 2002.

{¶3} The trial court's order of February 8, 2002 that imposed a prison term and, coupled with the court's prior order of January 31, 2001, denied Campbell the benefits of R.C. 2967.191 with respect to that sentence, was a final and appealable order per R.C. 2505.02. Campbell was required to file a notice of appeal from the order of February 8, 2002, within thirty days thereafter, per App.R. 4(A), in order to preserve his right to prosecute any claim of error arising from the February 8, 2002 order.

{¶4} Campbell's motion of October 1, 2002, was a collateral attack on a prior final order. The trial court had lost jurisdiction to modify the order after it was entered. Though it purports to attack a clerical error, Campbell's motion of October 1, 2002 presented a merit issue which the trial court could no longer resolve. The motion of October 1, 2002, was akin to a motion for reconsideration filed after a final order has been journalized. An order which then rules on such a motion is a nullity to which no right of appeal attaches. *Pitts v. Ohio Dep't. of Transportation* (1981), 67 Ohio St.2d 78.

{¶5} The trial court's order of October 10, 2002 from which this appeal was taken is a nullity, per *Pitts*, to which no right of appeal attaches. Therefore, the notice of appeal from that order which Campbell filed on October 29, 2002, was ineffective to confer jurisdiction on this court. Lacking jurisdiction, we must dismiss the appeal.

BROGAN, J. and YOUNG, J., concur.

Copies mailed to:

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Hon. Roger B. Wilson