

[Cite as *State v. Carter*, 2010-Ohio-3646.]

**IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
MONTGOMERY COUNTY**

STATE OF OHIO	:	
	:	Appellate Case No. 23575
Plaintiff-Appellee	:	
	:	Trial Court Case No. 99-CR-1936
v.	:	
	:	(Criminal Appeal from
LEWELL A. CARTER	:	Common Pleas Court)
	:	
Defendant-Appellant	:	
	:	

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OPINION

Rendered on the 6th day of August, 2010.

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MATHIAS H. HECK, JR., by MELISSA M. FORD, Atty. Reg. #0084215, Montgomery County Prosecutor’s Office, Appellate Division, Montgomery County Courts Building, P.O. Box 972, 301 West Third Street, Dayton, Ohio 45422
Attorney for Plaintiff-Appellee

LEWELL A. CARTER, #382-698, London Correctional Institution, Post Office Box 69, London, Ohio 43140
Defendant-Appellant, *pro se*

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BROGAN, J.

Lewell A. Carter appeals from the judgment of the trial court refusing to modify Carter’s sentence. Carter was convicted in 1999 of two counts of aggravated robbery and he was sentenced to two consecutive seven-year sentences.

On July 21, 2009, Carter filed a motion to modify the previous sentence

imposed upon him. The trial court overruled Carter's motion stating it lacked jurisdiction to modify Carter's sentence. In a single assignment of error, Carter argues the trial erred in denying his motion on jurisdictional grounds. Carter argues that the case law cited by the trial court in support of its decision is no longer controlling because of the passage of Senate Bill 2 in 1996. Carter cites no provision of that legislation that supports his argument. The State argues that the trial court did not err because nothing in the 1996 legislation broadened the trial court's authority to modify a sentence beyond that permitted by R.C. 2929.51.

In *State v. Lowe* (Jan. 26, 2001), Clark App. No. 99-CA-85, this court reiterated that once a valid sentence has been executed, a trial court no longer has the power to modify the sentence citing *State v. Addison* (1987), 40 Ohio App.3d 7. Carter did not seek judicial release pursuant to R.C. 2929.20 presumably because he is not an "eligible offender" serving a stated prison term of ten years or less. See R.C. 2929.20(A). The trial court properly denied Carter's motion to modify his sentence because it lacked jurisdiction to do so. Carter's assignment of error is Overruled. The judgment of the trial court is Affirmed.

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FAIN and FROELICH, JJ., concur.

Copies mailed to:

Mathias H. Heck, Jr.
Melissa M. Ford
Lewell A. Carter
Hon. Dennis J. Langer