[Cite as *State v. Wooden*, 2013-Ohio-3600.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio,	:	
Plaintiff-Appellee,	:	No. 13AP-159 (C.P.C. No. 01CR-1380)
v.	:	(REGULAR CALENDAR)
John W. Wooden,	:	
Defendant-Appellant.	:	

D E C I S I O N

Rendered on August 20, 2013

Ron O'Brien, Prosecuting Attorney, and *Seth L. Gilbert*, for appellee.

John W. Wooden, pro se.

APPEAL from the Franklin County Court of Common Pleas

O'GRADY, J.

{¶ 1} Defendant-appellant, John W. Wooden, appeals from a decision of the Franklin County Court of Common Pleas denying his motion to find his criminal sentence void. For the reasons that follow, we dismiss this appeal as moot.

{¶ 2} On March 8, 2001, appellant was indicted on three counts of felonious assault with firearm specifications, felonies of the second degree, one count of improperly discharging a firearm at or into a habitation with specifications, a felony of the second degree, and one count of having weapons while under disability, a felony of the fifth degree. Appellant entered a plea of guilty to one count of felonious assault without specification and one count of improperly discharging a firearm at or into a habitation without specification. A nolle prosequi was entered for the remaining counts. The trial court sentenced appellant to a five-year term of community control in February 2002.

{¶ 3} Appellant violated his community control and, on August 28, 2002, the trial court declared him to be an absconder and suspended his community-control period until he had been taken into custody or presented to the court for further disposition. The trial court re-sentenced appellant on February 7, 2003 to concurrent two-year prison terms for his original convictions. The trial court granted appellant 572 days of jail-time credit and notified him orally and in writing of the applicable periods of post-release control. The notice of commitment and calculation of sentence from the Ohio Department of Rehabilitation and Correction reflects that appellant was admitted to prison on February 14, 2003, and his "Calculated Release/Parole Board Date" was July 13, 2003. (R. 159.) Appellant was given his final release from post-release control supervision on July 21, 2004.

{¶ 4} On November 21, 2012, over eight years following his release from post-release control supervision, appellant filed a motion asking the trial court to void his sentence. Appellant argued he was never properly informed about post-release control and the potential consequences of a violation. On January 30, 2013, the trial court entered a decision and entry denying appellant's motion because its "February 7, 2003 re-sentencing entry clearly states that Defendant was notified of all applicable periods of post-release control."

{¶ 5} This appeal ensued, and appellant assigns the following single assignment of error for our review:

> The Trial Court erred in finding that the Judgment Entry complied with the mandatory notification of punishment as required pursuant to R.C. 2967.28.

{¶ 6} Plaintiff-appellee, the State of Ohio, argues that this appeal should be dismissed based on mootness because appellant has served the sentence that he is challenging in this appeal. We agree.

{¶ 7} In general, "[w]here a defendant, convicted of a criminal offense, has voluntarily paid the fine or completed the sentence for that offense, an appeal is moot when no evidence is offered from which an inference can be drawn that the defendant will suffer some collateral disability or loss of civil rights from such judgment or conviction." *State v. Wilson*, 41 Ohio St.2d 236 (1975), syllabus; *State v. Montavon*, 10th Dist. No.

12AP-631, 2013-Ohio-2009, ¶ 6. A person convicted of a felony, however, " 'has a substantial stake in the judgment of conviction which survives the satisfaction of the judgment imposed' " so that " 'an appeal challenging a felony conviction is not moot even if the entire sentence has been satisfied before the matter is heard on appeal.' " *Cleveland Hts. v. Lewis*, 129 Ohio St.3d 389, 2011-Ohio-2673, ¶ 19, quoting *State v. Golston*, 71 Ohio St.3d 224 (1994), syllabus.

{¶ 8} Nevertheless, as this court has consistently held, "the rationale underlying the *Golston* decision does not apply if an appeal solely challenges the *length* of a sentence rather than the underlying conviction." (Emphasis sic.) *Montavon* at ¶ 6, citing *Columbus v. Duff*, 10th Dist. No. 04AP-901, 2005-Ohio-2299, ¶ 12. That is, if an appellant has already served his sentence and is only questioning the propriety of the sentence, no remedy would have any effect without a reversal of the underlying conviction. *Montavon* at ¶ 6; *Duff* at ¶ 12.

{¶ 9} Such is the case here. The state submitted documentation to show appellant has served the February 7, 2003 sentence that he challenges in this appeal, including the period of post-release control.[1] Additionally, appellant is not contesting his underlying convictions; he is only challenging whether the post-release control portion of his sentence was properly imposed. For these reasons, this appeal is moot and is hereby dismissed.

Appeal dismissed.

KLATT, P.J., and TYACK, J., concur.

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[1] " 'An event that causes a case to become moot may be proved by extrinsic evidence outside the record.' " *State ex rel. Everhart v. McIntosh*, 115 Ohio St.3d 195, 2007-Ohio-4798, ¶ 10, quoting *State ex rel. Cincinnati Enquirer, Div. of Gannett Satellite Info. Network, Inc. v. Dupuis*, 98 Ohio St.3d 126, 2002-Ohio-7041, ¶ 8.