

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

STATE OF OHIO,	:	APPEAL NO. C-110411
Plaintiff-Appellee,	:	TRIAL NO. B-0702268-A
vs.	:	<i>JUDGMENT ENTRY.</i>
TERRY KENDRICK,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 3(A); App.R. 11.1(E); Loc.R. 11.1.1.

Defendant-appellant Terry Kendrick presents on appeal a single assignment of error challenging the Hamilton County Common Pleas Court’s judgment overruling his “Motion to Correct Void Sentence Pursuant to R.C. 2953.08(A)(4).” We overrule the assignment of error because the common pleas court had no jurisdiction to entertain the motion.

In 2008, Kendrick was convicted upon jury verdicts finding him guilty of multiple counts of dogfighting and drug trafficking. He unsuccessfully appealed his convictions to this court and to the Ohio Supreme Court. *See State v. Kendrick*, 1st Dist. No. C-080509, 2009-Ohio-3876, appeal not accepted for review, 123 Ohio St.3d 1510, 2009-Ohio-6210, 917 N.E.2d 812. In February 2010, Kendrick filed with the common pleas court his “Motion to Correct Void Sentence Pursuant to R.C. 2953.08(A)(4).” The court overruled the motion, and this appeal followed.

In his motion, Kendrick sought relief “[p]ursuant to R.C. 2953.08(A)(4).” But R.C. 2953.08(A)(4) affords a right to challenge a sentence as “contrary to law” in a

direct appeal. It does not, as Kendrick suggests, provide a means for “correct[ing]” a sentence after the direct appeal has been decided.

R.C. 2953.21 et seq., governing the proceedings on a petition for postconviction relief, provide “the exclusive remedy by which a person may bring a collateral challenge to the validity of a conviction or sentence in a criminal case.” R.C. 2953.21(J). Therefore, the common pleas court should have recast Kendrick’s motion as a postconviction petition and reviewed it under the standards provided by the postconviction statutes. *See State v. Schlee*, 117 Ohio St.3d 153, 2008-Ohio-545, 882 N.E.2d 431, ¶ 12.

But the postconviction statutes did not confer upon the common pleas court jurisdiction to entertain Kendrick’s motion on its merits, because he failed to satisfy either the time restrictions of R.C. 2953.21(A)(2) or the jurisdictional requirements of R.C. 2953.23. And although a trial court retains jurisdiction to correct a void judgment, *see State ex rel. Cruzado v. Zaleski*, 111 Ohio St.3d 353, 2006-Ohio-5795, 856 N.E.2d 263, ¶ 18-19, Kendrick’s challenges to his sentences, even if demonstrated, would not have rendered his judgment of conviction void.

Because the common pleas court had no jurisdiction to entertain Kendrick’s postconviction motion, the motion was subject to dismissal. *See* R.C. 2953.21(C) and 2953.23(A). Accordingly, upon the authority of App.R. 12(A)(1)(a), we modify the judgment appealed from to reflect the dismissal of the motion. And we affirm the judgment as modified.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HILDEBRANDT, P.J., DINKELACKER and FISCHER, JJ.

To the clerk:

Enter upon the journal of the court on February 3, 2012

per order of the court _____
Presiding Judge