

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

STATE OF OHIO,	:	APPEAL NO. C-160667
Plaintiff-Appellee,	:	TRIAL NOS. B-1001367
	:	B-0907263
vs.	:	<i>JUDGMENT ENTRY.</i>
PERRIN BURSE,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Petitioner-appellant Perrin Burse appeals from the Hamilton County Common Pleas Court's judgment denying his petition under R.C. 2953.21 et seq. for postconviction relief. We affirm the court's judgment.

Burse was convicted in 2011 on multiple counts of theft. He unsuccessfully challenged his convictions on direct appeal, *State v. Burse*, 1st Dist. Hamilton Nos. C-110196 and C-110266 (Aug. 31, 2012), *appeal not accepted*, 134 Ohio St.3d 1449, 2013-Ohio-347, 982 N.E.2d 728, and in a postconviction motion for a new trial, filed with the common pleas court in 2013. *State v. Burse*, 1st Dist. Hamilton No. C-140356 (Mar. 27, 2015).

In this appeal, Burse advances five assignments of error that, read together, challenge the common pleas court's failure to conduct a hearing on, or to grant the relief sought in, his 2016 postconviction petition. We overrule the assignments of error.

The postconviction statutes did not confer upon the common pleas court jurisdiction to entertain Burse's postconviction claims. He filed his petition well after the time prescribed by R.C. 2953.21(A)(2) had expired. And he failed to satisfy the jurisdictional requirements for entertaining a late postconviction claim, when the record

does not demonstrate that, but for the claimed sentencing errors and constitutional violations, “no reasonable factfinder would have found [him] guilty of the offense[s] of which [he] was convicted.” See R.C. 2953.23(A)(1)(b).

Nor were Burse’s convictions subject to correction under the 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. The alleged statutory violations and constitutional deprivations, even if demonstrated, would not have rendered his convictions void. See *State v. Wurzelbacher*, 1st Dist. Hamilton No. C-130011, 2013-Ohio-4009, ¶ 8; *State v. Grant*, 1st Dist. Hamilton No. C-120695, 2013-Ohio-3421, ¶ 9-16 (holding that a judgment of conviction is void only to the extent that a sentence is unauthorized by statute or does not include a statutorily mandated term or if the trial court lacks subject-matter jurisdiction or the authority to act); *State v. Hayes*, 1st Dist. Hamilton No. C-130450, 2014-Ohio-1263, ¶ 5 (holding that ineffective assistance of counsel does not render a conviction void).

Because the common pleas court had no jurisdiction to entertain Burse’s postconviction claims, his petition was subject to dismissal without an evidentiary hearing. See R.C. 2953.21(D) and 2953.23(A). Accordingly, upon the authority of App.R. 12(A)(1)(a), we modify the judgment appealed from to reflect a dismissal of the petition. 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.

MOCK, P.J., CUNNINGHAM and ZAYAS, JJ.

To the clerk:

Enter upon the journal of the court on February 28, 2018
per order of the court _____.

Presiding Judge