

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

STATE OF OHIO,	:	APPEAL NO. C-150430
Plaintiff-Appellee,	:	TRIAL NO. B-1002423
vs.	:	<i>JUDGMENT ENTRY.</i>
CONRAD ZDZIERAK,	:	
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.

Defendant-appellant Conrad Zdzierak presents on appeal four assignments of error that, read together, challenge the Hamilton County Common Pleas Court's judgment overruling, without a hearing, his Crim.R. 32.1 motion to withdraw his guilty pleas. We affirm the court's judgment as modified.

Zdzierak was convicted in 2011 upon guilty pleas to multiple counts of robbery and aggravated robbery. He unsuccessfully challenged his convictions in his direct appeal and in Crim.R. 32.1 motions filed with the common pleas court in 2012 and 2015. *See State v. Zdzierak*, 1st Dist. Hamilton No. C-110073 (Aug. 30, 2006), *appeal not accepted*, 131 Ohio St.3d 1439, 2012-Ohio-331, 960 N.E.2d 988; *State v. Zdzierak*, 1st Dist. Hamilton No. C-130299 (Jan. 29, 2014), *appeal not accepted*, 139 Ohio St.3d 1483, 2014-Ohio-3195, 12 N.E.3d 1229.

In the 2015 motion from which this appeal derives, Zdzierak contended that his pleas had not been knowing, voluntary, or intelligent, because the trial court had misinformed him concerning his eligibility for judicial release. But the common pleas court had no jurisdiction to grant the motion to withdraw his pleas, because we had, in his direct appeal, affirmed his convictions based upon those pleas. *See State*

ex rel. Special Prosecutors v. Judges, 55 Ohio St.2d 94, 97-98, 378 N.E.2d 162 (1978). *Accord State v. Ketterer*, 140 Ohio St.3d 400, 2014-Ohio-3973, 18 N.E.3d 1199; *State v. Akemon*, 1st Dist. Hamilton No. C-080443, 2009-Ohio-3728. And while a court always has 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, Zdzierak's challenge to the accuracy of the judicial-release information provided, even if demonstrated, would not have rendered his convictions void. *See Dunbar v. State*, 136 Ohio St. 3d 181, 2013-Ohio-2163, 992 N.E.2d 1111, ¶ 14-15 (holding that a guilty plea is voidable, not void, when a trial court has subject-matter jurisdiction, but errs in the exercise of that jurisdiction); *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).

Because the common pleas court had no jurisdiction to entertain Zdzierak's motion to withdraw his guilty pleas, the motion was subject to dismissal. *See* R.C. 2953.21(C) and 2953.23(A). And because the motion was subject to dismissal, Zdzierak was not entitled to an evidentiary hearing. *See* R.C. 2953.21(C).

Accordingly, upon the authority of App.R. 12(A)(1)(a), we modify the judgment appealed from to reflect a dismissal of the motion. And we affirm the judgment as modified.

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

FISCHER, P.J., HENDON and MOCK, JJ.

To the clerk:

Enter upon the journal of the court on October 21, 2016

per order of the court _____.

Presiding Judge