

## **Appellate Court Decisions - Week of 1/22/13**

Note: Anything that has "OVERVIEW" in front of it is the Lexis summary of a case.

### **First Appellate District of Ohio**

***State v. Bevins*, Appeal No. C-120345, Trial No. B-0009380**

**Postconviction: Sentencing**

**Full Decision:** [http://www.hamilton-co.org/appealscourt/docs/decisions/C-120345\\_01232013.pdf](http://www.hamilton-co.org/appealscourt/docs/decisions/C-120345_01232013.pdf)

**Substantial compliance is not enough for a postrelease-control notification at sentencing.**

**Summary provided by the First District Court of Appeals:**

R.C. 2953.21 et seq. did not confer upon the common pleas court jurisdiction to entertain defendant's postconviction "Motion to Correct Void Sentence": the motion was reviewable as a postconviction petition under R.C. 2953.21 et seq., because it did not specify the statute or rule under which relief was sought, and because the postconviction statutes provide the exclusive means for collaterally challenging a criminal conviction; but the motion was subject to dismissal for lack of jurisdiction, because it did not satisfy R.C. 2953.21(A)(2)'s time restrictions or R.C. 2953.23's jurisdictional requirements.

The Ohio Supreme Court in *Watkins v. Collins*, 111 Ohio St.3d 425, 2006-Ohio-5082, 857 N.E.2d 78, and *State ex rel. Pruitt v. Cuyahoga Cty. Court of Common Pleas*, 125 Ohio St.3d 402, 2010-Ohio-1808, 928 N.E.2d 722, established neither a rule of substantial compliance with the statutory mandates concerning postrelease-control notification when some reference is made to postrelease control at sentencing and in the judgment of conviction, nor a rule of waiver or forfeiture when postrelease-control notification is not challenged on direct appeal.

The common pleas court erred in failing to afford defendant the relief sought in his "Motion to Correct Void Sentence": the sentence was void to the extent that he had not been adequately notified concerning postrelease control; and the offending portion of the sentence was subject to review and correction, when defendant's motion brought the matter to the court's attention.

### **Supreme Court of Ohio**

*Nothing new.*

**Sixth Circuit Court of Appeals**

*Nothing new.*

**Supreme Court of the United States**

*Nothing new.*