

NOTICE

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

FILED

September 15, 2015
Carla Bender
4th District Appellate
Court, IL

2015 IL App (4th) 150294-U

NO. 4-15-0294

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: PRINTISS T., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Champaign County
v.)	No. 14JD119
PRINTISS T.,)	
Respondent-Appellant.)	Honorable
)	Heidi N. Ladd,
)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Justices Knecht and Holder White concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court dismissed the appeal, concluding it was without jurisdiction to address the issues raised by respondent.

¶ 2 In September 2014, respondent, Printiss T. (born November 10, 2001), pleaded guilty in Champaign County case No. 14-JD-119 to arson (720 ILCS 5/20-1(a)(1) (West 2012)) pursuant to the allegations of a delinquency petition. After a November 14, 2014, dispositional hearing, the trial court adjudicated respondent a ward of the court and committed him to the Department of Juvenile Justice (Department) for an indeterminate term. On February 11, 2015, the court held a commitment review hearing, after which respondent was returned to the Department's custody. On March 2, 2015, respondent filed a motion to reconsider his sentence, which the court denied. Respondent appeals, arguing the (1) trial court erred in finding he was

not entitled to credit for time served in presentence custody; and (2) circuit clerk improperly imposed a \$50 "Court Finance Fee" and \$5 "Drug Court Program" assessment. We dismiss the appeal, concluding we are without jurisdiction to address the issues raised by respondent.

¶ 3

I. BACKGROUND

¶ 4 In June 2014, the State filed a petition for adjudication of delinquency and wardship, alleging respondent was delinquent in that on May 27, 2014, he committed the offense of theft, a Class 3 felony (720 ILCS 5/16-1(a)(1), (b)(4) (West 2012)) (count I).

¶ 5 In August 2014, the State filed a supplemental petition for adjudication of delinquency and wardship, alleging respondent was delinquent in that on May 27, 2014, he committed the offense of theft, a Class A misdemeanor (720 ILCS 5/16-1(a)(4)(A) (West 2012)) (count II). That same month, the State filed a second supplemental petition for adjudication of delinquency and wardship, alleging respondent was delinquent in that on June 6, 2014, he committed the offenses of burglary, a Class 2 felony (720 ILCS 5/19-1(a) (West 2012)) (count III), and arson, a Class 2 felony (720 ILCS 5/20-1(a)(1) (West 2012)) (count IV).

¶ 6 In September 2014, respondent and the State reached a partially negotiated plea agreement. Under the agreement, respondent offered to plead guilty to arson (count IV) in exchange for the State's dismissal of the (1) felony-theft charge (count I) (2) misdemeanor-theft charge (count II), and (3) burglary charge (count III). The court accepted respondent's guilty plea to count IV and granted the State's motion to dismiss counts I, II, and III. Respondent was released into the care of his mother pending the dispositional hearing.

¶ 7 On November 3, 2014, respondent was arrested for aggravated battery of a school employee, a Class 3 felony (720 ILCS 5/12-3.05(d)(3) (West 2012)) (Champaign County case

No. 14-JD-207). On November 4, 2014, the trial court held a detention hearing, where respondent appeared on both case Nos. 14-JD-119 and 14-JD-207. The court ordered respondent held in the custody of juvenile court services pending his next hearing.

¶ 8 On November 14, 2014, the trial court held (1) a dispositional hearing with respect to respondent's guilty plea and adjudication of delinquency for the offense of arson (case No. 14-JD-119) and (2) a status hearing on respondent's aggravated-battery charge (case No. 14-JD-207). As to the dispositional hearing, the court adjudicated respondent a ward of the court and committed him to the Department "for an indeterminate term which shall automatically terminate in seven years or upon the delinquent minor attaining the age of 21 years, whichever comes first." The court denied respondent presentence credit, citing as its reason he did not "surrender" on the arson charge when he was placed in custody on the aggravated-battery charge. As to the aggravated-battery charge, the State moved to dismiss the petition, which the court granted. The circuit clerk later imposed a \$50 "Court Finance Fee" and \$5 "Drug Court Program" assessment.

¶ 9 On February 11, 2015, the trial court held a commitment-review hearing. After hearing arguments by the parties, the court determined it would not vacate its commitment order, and respondent was returned to the Department's custody.

¶ 10 On March 2, 2015, respondent filed a motion entitled "motion for reconsideration of sentence." In his motion, respondent asserted, in relevant part, the following: (1) on September 24, 2014, respondent pleaded guilty to arson; (2) on November 14, 2014, "[r]espondent *** was resentenced [*sic*] to the [Department] with a [r]eview of the [s]entence scheduled for February 11, 2015"; (3) on February 11, 2015, "[r]espondent's motion to vacate the

sentence in the [Department] was denied"; and (4) respondent filed his motion within 30 days of the "imposition of sentence to the [Department]." Respondent argued his sentence was excessive and not the least-restrictive alternative.

¶ 11 After an April 21, 2015, hearing, the trial court denied respondent's motion.

¶ 12 On April 22, 2015, respondent filed a notice of appeal from his "[a]djudication, [o]rder of [c]ommitment [t]o the [Department], and [d]enial of [m]otion to [r]econsider [s]entence."

¶ 13 This appeal followed.

¶ 14 II. ANALYSIS

¶ 15 On appeal, respondent argues the (1) trial court erred in finding he was not entitled to credit for time served in presentence custody, and (2) circuit clerk improperly imposed a \$50 "Court Finance Fee" and \$5 "Drug Court Program" assessment.

¶ 16 In response, the State asserts, "[g]iven the existing state of the record, [it] is presently unable to argue against respondent's claims, except to assert that this court lacks jurisdiction to review them." Specifically, the State asserts respondent failed to timely file a motion to reconsider his sentence within 30 days of the November 14, 2014, order of commitment, and therefore, pursuant to *In re Justin L.V.*, 377 Ill. App. 3d 1073, 1089, 882 N.E.2d 621, 635 (2007) (finding the failure to timely appeal an order of commitment precluded review of the respondent's claim to additional presentence credit or any issues arising from his guilty plea or sentence), this court lacks jurisdiction to consider respondent's requests for presentence credit and the vacature of improperly imposed fines.

¶ 17 This court has a duty to consider its jurisdiction prior to addressing the merits of

an appeal and to dismiss the appeal if it finds jurisdiction is lacking. *In re J.T.*, 221 Ill. 2d 338, 346, 851 N.E.2d 1, 6 (2006). "If a court lacks jurisdiction, it cannot confer any relief, even from prior judgments that are void." *People v. Flowers*, 208 Ill. 2d 291, 308, 802 N.E.2d 1174, 1184 (2003). Absent jurisdiction, an order directed at a void judgment would itself be void and of no effect. *Id.*

¶ 18 "In noncapital cases an appeal is perfected by the timely filing of a notice of appeal, and it is this step which vests the appellate court with jurisdiction." *J.T.*, 221 Ill. 2d at 346, 851 N.E.2d at 6. A dispositional order in a juvenile proceeding is a final order. *In re Gennell C.*, 2012 IL App (4th) 110021, ¶ 9, 968 N.E.2d 1258; *Justin L.V.*, 377 Ill. App. 3d 1073, 1079, 882 N.E.2d 621, 626 (2007). Illinois Supreme Court Rule 604(d) (eff. Feb. 6, 2013) requires that in order to appeal from a judgment upon a plea of guilty, a defendant must first file, within 30 days of the date on which the sentence is imposed, a written motion to either withdraw his guilty plea or reconsider the sentence. Illinois Supreme Court Rule 605(b) (eff. Oct. 1, 2001) requires a notice of appeal be filed with the clerk of the court within 30 days of the entry of the final judgment appealed or, if a motion directed against the judgment is timely filed, within 30 days of the entry of the order disposing of that motion.

¶ 19 The State acknowledges "respondent filed a timely appeal *** with respect to the trial court's February 11, 2015, review[-]hearing decision." Section 5-745(1) of the Juvenile Court Act of 1987 (Juvenile Act) provides as follows:

"The court may require any legal custodian or guardian of the person appointed under this [Juvenile] Act, including the Department *** for youth committed under [s]ection 5-750 of this

Act, to report periodically to the court or may cite him or her into court and require him or her, or his or her agency, to make a full and accurate report of his or her or its doings in behalf of the minor, including efforts to secure post-release placement of the youth after release from the Department's facilities. The legal custodian or guardian, within 10 days after the citation, shall make the report, either in writing verified by affidavit or orally under oath in open court, or otherwise as the court directs. Upon the hearing of the report the court may remove the legal custodian or guardian and appoint another in his or her stead or restore the minor to the custody of his or her parents or former guardian or legal custodian." 705 ILCS 405/5-745(1) (West 2012).

Section 5-745(3) of the Juvenile Act further provides as follows:

"The minor or any person interested in the minor may apply to the court for a change in custody of the minor and the appointment of a new custodian or guardian of the person or for the restoration of the minor to the custody of his or her parents or former guardian or custodian. In the event that the minor has attained 18 years of age and the guardian or custodian petitions the court for an order terminating his or her guardianship or custody, guardianship or legal custody shall terminate automatically 30 days after the receipt of the petition unless the court orders otherwise. No legal

custodian or guardian of the person may be removed without his or her consent until given notice and an opportunity to be heard by the court." 705 ILCS 405/5-745(3) (West 2012).

¶ 20 As a preliminary matter, we note the record does not reflect respondent's counsel filed a written motion to vacate the Department's guardianship. Instead, it appears the court conducted a review hearing pursuant to section 5-745(1) of the Juvenile Act. 705 ILCS 405/5-745(1) (West 2012). At that hearing, respondent's counsel addressed the court, stating, "[W]e would ask that [respondent] be released." Further, in his March 2, 2015, motion to reconsider his sentence, respondent alleged that on February 11, 2015, "[his] motion to vacate the sentence in the [Department] was denied." At the hearing on the motion, the State voiced no objection to respondent's characterization of the February 11, 2015, proceedings. Accordingly, we consider respondent's counsel's request for respondent's release made at the review hearing an oral motion to vacate the Department's guardianship pursuant to section 5-745(3) of the Juvenile Act. See *Justin L.V.*, 377 Ill. App. 3d at 1081, 882 N.E.2d at 628 (finding respondent's counsel's request for respondent's release to his parents and the State's failure to object to respondent's later characterization of the review-hearing proceedings demonstrated respondent did move to vacate guardianship pursuant to section 5-743(3) of the Juvenile Act (705 ILCS 405/5-475(3) (West 2004))).

¶ 21 The trial court's February 11, 2015, order denying respondent's oral motion to vacate his commitment to the Department was a final order. See *Justin L.V.*, 377 Ill. App. 3d at 1084-85, 882 N.E.2d at 631. On March 2, 2015, respondent filed a motion to reconsider his sentence, alleging it was filed within 30 days of the "imposition of sentence to the

[Department]." However, the dispositional order setting forth respondent's sentence to the Department was entered on November 14, 2014. To have been timely, a motion to reconsider the dispositional order must have been filed within 30 days of the order's entry. Clearly, that did not happen here. Therefore, while respondent's notice of appeal conferred jurisdiction on this court to review the February 11, 2015, order, it did not confer jurisdiction on this court to consider the issues respondent raises relating to the November 2014 dispositional order. As the State correctly asserts, this court is without jurisdiction to review any issues arising from respondent's guilty plea or sentence, including respondent's claims to presentence credit and the vacature of improperly imposed fines.

¶ 22 Our decision is supported by this court's disposition of an almost identical issue in *Justin L.V.* In that case, we determined, although jurisdiction was present to address contentions of error in the trial court's denial of the respondent's motion to vacate commitment, the respondent's request for additional presentence credit was "an issue directly 'arising from either his guilty plea or his sentence,' " and it did not arise in any manner that would confer jurisdiction on the court. *Id.* at 1089, 882 N.E.2d at 634-35. We determined a claim for additional presentence credit was a claim that the order committing the respondent should be amended to reflect that credit, and as the commitment order was not properly before the court, we found jurisdiction was lacking to consider the merits of the respondent's claims. *Id.* at 1089, 882 N.E.2d at 634.

¶ 23 As suggested in *Justin L.V.*, respondent here is not without recourse. "[T]he trial court retains jurisdiction over 'nonsubstantial matters' such as the amendment of the sentencing judgment, despite the filing of an appeal." *Id.* at 1089, 882 N.E.2d at 635 (quoting *Baker v.*

Department of Corrections, 106 Ill. 2d 100, 106, 477 N.E.2d 686, 689 (1985)). Respondent may bring these issues to the attention of the trial court. *Id.* ("Thus, nothing in this ruling precludes respondent from challenging the sentencing judgment in the trial court.").

¶ 24

III. CONCLUSION

¶ 25 For the reasons stated, we dismiss the appeal, concluding we are without jurisdiction to address the issues raised by respondent.

¶ 26 Appeal dismissed.