

COURT OF COMMON PLEAS
CLERMONT COUNTY, OHIO

STATE OF OHIO	*	CASE NO. 2011 CR 00170
PLAINTIFF	*	
VS.	*	<u>DECISION/ENTRY</u>
CORTNEY AMANDA REID	*	<u>DENYING REQUEST FOR</u>
DEFENDANT	*	<u>TERMINATION OF</u>
		<u>RESTITUTION ORDER AND</u>
		<u>MODIFYING COMMUNITY</u>
		<u>CONTROL SANCTIONS</u>

This cause is before the court for consideration of the victim James Angel's request for a "possible termination of the restitution order placed on Courtney Reid." The defendant appeared in court on the 23rd day of December 2013 for a hearing on the request. The victim James Angel was present at the hearing and orally repeated his request, and the state of Ohio was represented at the hearing by Catherine Adams, assistant prosecuting attorney.

The court is without authority to modify an order of restitution which is properly made at the time of sentencing and which for all practical purposes constitutes a judgment in favor of the victim. See State v. Burns (Aug. 19, 2011), 8th Dist. No. 95465, 2011-Ohio-4230, at ¶ 40. A financial sanction of restitution is a judgment in favor of the victim of the offender's criminal act, and the offender subject to the restitution sanction is the judgment debtor. *State v. Gamble* (Mar. 22, 2002), 1st Dist. No. C-010463, 2002-Ohio-1981, citing R.C. 2929.18(A) and R.C. 2929.18(D). Because it is part of the

sentence, an order of restitution is a final and appealable order. See State v. Danison (2005), 105 Ohio St.3d 127, 2005-Ohio-781, at ¶ 8. There is no statutory authority for the court to exercise continuing jurisdiction to modify the amount of a financial sanction. State v. Purnell (1st Dist., 2006), 171 Ohio App.3d 446, 871 N.E.2d 613, at ¶ 2. It can, however, modify the payment terms of restitution, or enter a less restrictive sanction as set forth in R.C. 2929.15(C) if an offender for a significant period of time fulfills the conditions of a sanction in an exemplary manner, or suspend the financial sanction as provided in R.C. 2929.18(G) if an offender satisfies all the other sanctions and has paid restitution as ordered. *Id.* Additionally, the court may impose a more restrictive sanction only if the defendant violates the conditions of the community control which was imposed. See State v. Kuhn (2nd Dist., 2005), 2nd Dist. No. 20912, 2005-Ohio-6836, at ¶¶ 24-25, citing R.C. 2929.14(B).

The court finds, based on the facts of this case, that the amount of restitution as ordered in the sentenced entry may not be modified and constitutes a judgment against the defendant. However, the payment terms contained in the community control sanctions shall be modified in the following respects: The defendant is not required to work two jobs in order to pay the restitution. The defendant shall make payments toward the financial sanctions as directed by the Probation Department. At the victim's request, the court will not revoke the defendant's community control based upon her failure to pay restitution as ordered. However, the defendant's community control may be revoked if she fails to comply with any of the other sanctions, and the defendant must pay the financial sanctions in full which are not payable to the victim, meaning that the defendant's obligation to pay the court costs and supervision fees remain in full

force and effect and are unaffected by this order. Furthermore, the defendant's community control may be revoked if these other sanctions are not paid in full and in accordance with the court's orders.

IT IS SO ORDERED.

Dated: _____

Judge Jerry R. McBride

CERTIFICATE OF SERVICE

The undersigned certifies that copies of the within Decision/Entry were sent via Facsimile/E-Mail/Regular U.S. Mail this 30th day of December 2013 to all counsel of record, the defendant, the Probation Department, and James Angel.

Administrative Assistant to Judge McBride