

[Cite as *State v. Carberry*, 2002-Ohio-1603.]

IN THE COURT OF APPEALS  
TWELFTH APPELLATE DISTRICT OF OHIO  
BUTLER COUNTY

STATE OF OHIO, :  
 :  
 Plaintiff-Appellee, : CASE NO. CA97-09-176  
 :  
 - vs - :  D E C I S I O N   
 : 4/8/2002  
 :  
 DAVID CARBERRY, :  
 :  
 Defendant-Appellant. :

Robin N. Piper, Butler County Prosecuting Attorney, Government Services Center, 315 High Street, 11<sup>th</sup> Floor, Hamilton, OH 45012-0515, for plaintiff-appellee

Mary Lou Kusel, 118 S. Second Street, Hamilton, OH 45011, for defendant-appellant

**Per Curiam.**

{¶1} This cause came on to be considered upon a notice of appeal, the transcript of the docket and journal entries, the transcript of proceedings and original papers from the Butler County Court of Common Pleas, and upon the brief filed by appellant's counsel, oral argument having been waived.

{¶2} Counsel for defendant-appellant, David Carberry, filed a brief with this court pursuant to Anders v. California

(1967), 386 U.S. 738, 87 S.Ct. 1396, which (1) indicates that a careful review of the record from the proceedings below fails to disclose any errors by the trial court prejudicial to the rights of appellant upon which an assignment of error may be predicated; (2) lists three potential errors "that might arguably support the appeal," Anders, at 744, 87 S.Ct. at 1400; (3) requests that this court review the record independently to determine whether the proceedings are free from prejudicial error and without infringement of appellant's constitutional rights; (4) requests permission to withdraw as counsel for appellant on the basis that the appeal is wholly frivolous; and (5) certifies that a copy of both the brief and motion to withdraw have been served upon appellant.<sup>1</sup>

{¶3} Having allowed appellant sufficient time to respond, and no response having been received, we have accordingly examined the record and find no error prejudicial to appellant's rights in the proceedings in the trial court. Therefore, the motion of counsel for appellant requesting to withdraw as counsel is granted, and this appeal is hereby dismissed for the reason that it is wholly frivolous.

WALSH, P.J., YOUNG and VALEN, JJ., concur.

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1. Appellant's brief was not filed in this case until two months after appellant had been paroled from prison. Counsel claimed she was unable to locate appellant for some time and could not file the brief until first serving him with a copy.