

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

STATE OF OHIO, :
 :
 Plaintiff-Appellee, : CASE NO. CA2003-07-182
 :
 -vs- : D E C I S I O N
 :
 :
 TOBY RIVERS, JR., :
 :
 Defendant-Appellant. :

CRIMINAL APPEAL FROM BUTLER COUNTY COURT OF COMMON PLEAS
Case No. CR2003-04-0510

Robin N. Piper, Butler County Prosecuting Attorney, Randi E. Froug, Government Services Center, 315 High Street, 11th Floor, Hamilton, OH 45012-0515, for plaintiff-appellee

Frank M. Mungo, 524 Greenup Street, Covington, KY 41011, 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, Toby Rivers, Jr., 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 one potential error "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.

{¶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.¹ 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.

1. We note that the trial court erroneously advised appellant that he could be fined up to \$5,000 on each fifth-degree felony charge to which he was pleading guilty. A fine for a fifth-degree felony cannot exceed \$2,500. R.C. 2929.18(A)(3)(e). However, we find no prejudicial harm to appellant since the trial court did not assess any fines and only sentenced appellant to community control.

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