

[Cite as *State v. Smith*, 2004-Ohio-5282.]

IN THE COURT OF APPEALS FOR MONTGOMERY COUNTY, OHIO

STATE OF OHIO	:	
Plaintiff-Appellee	:	C.A. CASE NO. 20043
v.	:	T.C. CASE NO. 02 CR 2838/2
DAVID LAMAR SMITH	:	(Criminal Appeal from Common Pleas Court)
	:	Defendant-Appellant
	:	

**OPINION**

Rendered on the 30<sup>th</sup> day of September, 2004.

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Attorney for Plaintiff-Appellee

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Attorney for Defendant-Appellant

DAVID LAMAR SMITH, #A449-430, Warren Correctional Institution, P. O. Box 120, Lebanon, Ohio 45036-0120  
Defendant-Appellant

FREDERICK N. YOUNG, J.

{¶ 1} David Lamar Smith is appealing from his conviction, following a trial to a jury, of guilt for one count of felonious assault with a deadly weapon, one count of

felonious assault causing serious physical harm, and one count of aggravated robbery causing serious physical harm.

{¶ 1} His appointed counsel filed an *Anders* brief which set forth the facts of the assault on the complaining victim and concluded that there were no meritorious issues for appeal. Counsel even noted that “the trial was relatively free of controversy with most evidentiary rulings going in the defendant’s favor.” (Brief, 4).

{¶ 2} On February 24, 2004, we informed Smith of the fact that his counsel had filed an *Anders* brief and granted him sixty days from that date to file his pro se brief, if any.

{¶ 3} No pro se brief was filed before the expiration of the sixty-day time limit, but an unsigned handwritten letter was filed with the court. The letter contains very brief assertions, unsubstantiated by anything in the trial or submitted to this court, of an alibi by Smith and an argument that the verdict was against the manifest weight of the evidence.

{¶ 4} We need not consider an unsigned, pro se, handwritten letter from the defendant here, but even if we did consider it, we note that the evidence of an alibi was, in fact, submitted to the jury which it obviously did not believe, and the evidence in favor of the verdict was extremely substantial and not against the manifest weight.

{¶ 5} We have thoroughly examined the record of the proceedings in this case, and we agree with the assessment of appellate counsel that there are no meritorious issues for appellate review.

{¶ 6} The judgment appealed from will be affirmed.

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FAIN, J. and BROGAN, J., concur.

Copies mailed to:

R. Lynn Nothstine  
Michael H. Holz  
David Lamar Smith  
Hon. G. Jack Davis, Jr.