

[Cite as *State v. Campbell*, 2008-Ohio-4323.]

**IN THE COURT OF APPEALS OF OHIO  
SECOND APPELLATE DISTRICT  
MONTGOMERY COUNTY**

STATE OF OHIO

Plaintiff-Appellee

v.

CHRISTOPHER O. CAMPBELL

Defendant-Appellant

Appellate Case No. 22408

Trial Court Case No. 1997-CR-917/2

(Criminal Appeal from  
Common Pleas Court)

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**OPINION**

Rendered on the 22<sup>nd</sup> day of August, 2008.

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MATHIAS H. HECK, JR., by CARLEY J. INGRAM, Atty. Reg. #0020084, Montgomery County  
Prosecutor's Office, Appellate Division, Montgomery County Courts Building, P.O. Box 972,  
301 West Third Street, Dayton, Ohio 45422

Attorney for Plaintiff-Appellee

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Attorney for Defendant-Appellant

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BROGAN, J.

{¶ 1} Christopher Campbell appeals from the trial court's judgment denying his

motion to withdraw his plea of guilty to involuntary manslaughter and kidnaping which he entered on September 24, 1997. He also sought to have his consecutive sentence modified pursuant to *State v. Foster*, 109 Ohio St.3d, 2006-Ohio-856.

{¶ 2} Campbell's appointed counsel on appeal has filed an *Anders* brief stating he could find no arguable merit to this appeal. Counsel noted that *Foster* only applied to cases on direct appeal at the time the decision was rendered and Campbell's case was not in direct appeal at the time of that decision. Campbell's appointed counsel also notes that Campbell did not explain to the trial court why he waited ten years to assert for the first time that his trial counsel was constitutionally ineffective. Certainly, trial counsel could not have anticipated the sentencing-jury issue first decided by the United States Supreme Court in *Apprendi v. New Jersey*, 530 U.S. 466, 120 S.Ct. 2348 (2000).

{¶ 3} Campbell was notified on April 17, 2008, that his appointed counsel could find no arguable merit to this appeal. He was given sixty (60) days to file his own brief, which he has not done. We have examined the record and find no basis for believing the trial court erred in denying the relief Campbell sought. The Judgment of the trial court is Affirmed.

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WOLFF, P.J., and DONOVAN, J., concur.

Copies mailed to:

Mathias H. Heck, Jr.  
Carley J. Ingram  
Anthony S. Vannoy  
Hon. Mary Katherine Huffman