

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
SANDUSKY COUNTY

State of Ohio

Court of Appeals No. S-11-019

Appellee

Trial Court No. 10 CR 401

v.

Jeremy J. Thompson

DECISION AND JUDGMENT

Appellant

Decided: March 30, 2012

* * * * *

Thomas L. Stierwalt, Sandusky County Prosecuting Attorney, and
Norman P. Solze, Assistant Prosecuting Attorney, for appellee.

James L. Reinheimer, for appellant.

* * * * *

HANDWORK, J.

{¶ 1} This appeal is from the April 6, 2011 judgment of the Sandusky County Court of Common Pleas, which sentenced appellant, Jeremy J. Thompson, after the court accepted his guilty plea and convicted him of violating R.C. 2913.02(A)(1), grand theft. Upon consideration of the assignments of error, we affirm the decision of the lower court.

{¶ 2} Pursuant to the guidelines set forth in *Anders v. California*, 386 U.S. 738, 875 S.Ct. 1396, 18 L.Ed.2d 493 (1967), appellant's court appointed counsel has filed an appellate brief and motion to withdraw as counsel. He mailed a copy of the brief and motion to appellant and informed him that he had a right to file his own brief, but he did not do so.

{¶ 3} Appellant's counsel states in his motion that he thoroughly reviewed the record in this case and concluded that the trial court did not commit any error prejudicial to appellant. However, in compliance with the requirements of *Anders, supra*, appellant's counsel has submitted a brief setting forth the following potential assignment of error:

THE TRIAL COURT FAILED TO GIVE PROPER CONSIDERATION TO THE SENTENCING FACTORS SET FORTH IN ORC 2929.11, 2929.12, 2929.13, ET SEQ. FOR THE SENTENCING OF DEFENDANT-APPELLANT.

{¶ 4} Appellant's appointed counsel has included an argument in support of this assignment of error, but concludes that it is unsupported by the record. Therefore, he concludes that an appeal would be frivolous.

{¶ 5} When reviewing a felony sentence, the appellate court must first examine the trial court's sentence to determine if it is clearly and convincingly contrary to law pursuant to R.C. 2953.08(G). If the appellate court finds that the trial court complied with all applicable rules and statutes, it then determines whether the trial court abused its

discretion by imposing the sentence. *State v. Kalish*, 120 Ohio St.3d 23, 2008-Ohio-4912, ¶ 14-17. The abuse of discretion standard requires that we find the trial court's sentence was unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219, 450 N.E.2d 1140 (1983).

{¶ 6} At the sentencing hearing, the court acknowledged it had to consider the principles and purposes of sentencing (R.C. 2929.11) and that it considered appellant's rehabilitation along with the seriousness of the offense and need to protect the public from criminals such as appellant (R.C. 2929.12). The trial court also considered that appellant was under a community control sanction from another court at the time of this offense and, therefore, a community control sanction would not be effective (R.C. 2929.13). The court imposed the recommended sentence and imposed a prison sentence within the statutory range, plus restitution.

{¶ 7} Appellant's counsel argued only that the court erred by giving a cursory review of the facts. We disagree. The trial court reiterated the important facts of this case before imposing the sentence. There is no evidence that the trial court abused in discretion in sentencing. There is no merit to the error alleged by appellant's appointed counsel.

{¶ 8} Finally, this court has the obligation to fully examine the record in this case to determine whether an appeal would be frivolous. *Anders, supra*, at 744. Our review of the record does not disclose any errors by the trial court which would justify a reversal of the judgment. Therefore, we find this appeal to be wholly frivolous. Counsel's request

to withdraw as appellate counsel is found well-taken and is hereby granted. Having found that the trial court did not commit error prejudicial to appellant, the judgment of the Sandusky County Court of Common Pleas is hereby affirmed. Pursuant to App.R. 24, appellant is hereby ordered to pay the court costs incurred on appeal.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Peter M. Handwork, J.

JUDGE

Mark L. Pietrykowski, J.

JUDGE

Thomas J. Osowik, J.
CONCUR.

JUDGE

<p>This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at: http://www.sconet.state.oh.us/rod/newpdf/?source=6.</p>
