

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

State of Ohio

Appellee

Court of Appeals Nos. L-11-1229
L-11-1230
L-11-1231
L-11-1232

v.

Steve M. Dumit

Appellant

Trial Court Nos. TRC-11-10515-0202
CRB-11-06988-0102
CRB-11-06988-0202
TRC-11-10515-0102

DECISION AND JUDGMENT

Decided: January 11, 2013

* * * * *

Matthew B. Bryant; for appellant.

Steve M. Dumit, pro se.

* * * * *

HANDWORK, J.

{¶ 1} This appeal is from the September 14, 2011 judgment of the Toledo Municipal Court, which sentenced appellant, Steven Dumit, after he was convicted by the court of violating R.C. 4513.02(A), 2903.21, and 2921.33(A) (driving an unsafe vehicle,

menacing, and resisting arrest). He was acquitted of a charge of driving under the influence.

{¶ 2} Pursuant to the guidelines set forth in *Anders v. California*, 386 U.S. 738, 87 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, and he did 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 considered the following potential assignments of error, but he found each to be without merit:

I. Whether the defendant/appellant was denied the effective assistance of counsel.

II. Whether the defendant's conviction is against the manifest weight of the evidence.

III. Whether the trial court erred in denying the defendant/appellant's ALS appeal.

{¶ 4} We have considered the matters presented by appellant's appointed counsel and agree that these matters did not give rise to any meritorious argument on appeal.

While we are concerned that appellant's trial counsel stated in closing arguments that he

had not even read the statutes which appellant was charged with having violated, we are satisfied, by the statements of the trial judge, that the judge, as the trier of fact, thoroughly considered the law and facts in this case. We have also reviewed the transcript and find that the convictions were supported by the manifest weight of the evidence. Finally, we reviewed the automatic license suspension hearing and find that there was sufficient evidence of appellant's knowing and voluntary refusal to take the breathalyzer test to justify the license suspension.

{¶ 5} Appellant also filed a brief and, without setting forth assignments of error, made the following allegations of error that can be addressed in a direct appeal: (1) His counsel did not sufficiently challenge the prosecution's evidence nor present evidence of the facts that appellant believes are important; (2) the judge was biased against appellant as shown by his interruption of appellant while he was testifying; and (3) the conviction for resisting arrest and menacing were unsupported by the evidence. The additional arguments appellant made in his brief involve matters that cannot be addressed in a direct appeal because they involve facts outside the record.

{¶ 6} We have also considered the alleged errors raised by appellant and find that none of them have any merit. We have reviewed the trial transcript with respect to the representation of appellant's trial counsel and find that he adequately protected appellant's rights and directed the court to the factual issues that would support an acquittal. We also reviewed the transcript with respect to the judge's actions, and we find the trial court judge, who has the inherent power to control the proceedings in his

courtroom, did not show any bias toward appellant. We find that the judge only blocked appellant from testifying about irrelevant matters or repeating issues that had already been resolved. The judge was in fact very patient with appellant and even allowed appellant to present arguments that would not normally have been permitted when one is represented by counsel. Finally, we considered whether the convictions were supported by the manifest weight of the evidence and found that they were. Therefore, we find all of the potential assignments of error raised by appellant and his appointed counsel not well-taken.

{¶ 7} This court has the obligation to fully examine the record in this case to determine whether an appeal would be frivolous. *Anders*, 386 U.S. at 744, 87 S.Ct. 1396, 18 L.Ed.2d 493. Our review of the record does not disclose any errors by the trial court which would justify a reversal of the judgment.

{¶ 8} 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 Toledo Municipal Court is affirmed. Pursuant to App.R. 24, appellant is hereby ordered to pay the court costs incurred on appeal.

Judgment affirmed.

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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

Arlene Singer, P.J. _____

JUDGE

Thomas J. Osowik, J. _____
CONCUR.

JUDGE

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>.