

STATE OF OHIO)
)ss:
COUNTY OF SUMMIT)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

STATE OF OHIO

C.A. No. 26676

Appellee

v.

ANDREW KOSTURKO

Appellant

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF SUMMIT, OHIO
CASE No. CR 11 07 1882

DECISION AND JOURNAL ENTRY

Dated: June 26, 2013

CARR, Judge.

Appellant, Andrew Kosturko, appeals the judgment of the Summit County Court of Common Pleas. This Court affirms.

I.

On July 20, 2011, the Summit County Grand Jury returned a secret indictment charging Kosturko with one count of rape in violation of R.C. 2907.02(A)(2), a felony of the first degree; one count of felonious assault in violation of R.C. 2903.11(A)(1), a felony of the second degree; one count of gross sexual imposition in violation of R.C. 2907.05(A)(1), a felony of the fourth degree; and one count of domestic violence in violation of R.C. 2919.25(A), a misdemeanor of the first degree. Kosturko pleaded not guilty to the charges at arraignment, and the matter proceeded to trial. A jury subsequently found Kosturko not guilty of rape, but guilty of felonious assault, gross sexual imposition, and domestic violence. Kosturko was sentenced to a six-year term of imprisonment. The trial court issued its sentencing entry on September 27, 2012.

Kosturko appeared again before the trial court on October 1, 2012, so that the trial court could correct an error in the imposition of post-release control. A corrected sentencing entry was journalized on October 4, 2012.

Kosturko filed a timely notice of appeal. On October 28, 2012, the trial court appointed appellate counsel.

II.

On March 11, 2013, appellate counsel filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), stating that she had reviewed the record and concluded that there were no assignments of error to be found in this case. Kosturko's counsel also moved to withdraw as counsel of record in this matter. Kosturko was served with a copy of appellate counsel's brief, and this Court issued a magistrate's order affording Kosturko an opportunity to raise arguments after review of the *Anders* brief. Kosturko has not responded to the brief.

Upon this Court's own full, independent examination of the record before us, we find that there are not appealable, non-frivolous issues in this case. *See State v. Randles*, 9th Dist. No. 23857, 2008-Ohio-662, ¶ 6; *State v. Lowe*, 9th Dist. No. 97CA006758 (Apr. 8, 1998).

III.

The judgment of the Summit County Court of Common Pleas is affirmed. Appellate counsel's motion to withdraw as counsel is hereby granted.

Judgment affirmed.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Summit, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(C). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

DONNA J. CARR
FOR THE COURT

MOORE, P. J.
HENSAL, J.
CONCUR.

APPEARANCES:

LEE A. SCHAFFER, Attorney at Law, for Appellant.

SHERRI BEVAN WALSH, Prosecuting Attorney, and HEAVEN DIMARTINO, Assistant Prosecuting Attorney, for Appellee.