

[Cite as *State v. Brooks*, 2014-Ohio-679.]

STATE OF OHIO)
)ss:
COUNTY OF SUMMIT)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

STATE OF OHIO

C.A. No. 26831

Appellee

v.

JERMAINE FRANKLIN BROOKS

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF SUMMIT, OHIO
CASE No. CR 12 09 2744

Appellant

DECISION AND JOURNAL ENTRY

Dated: February 26, 2014

MOORE, Judge.

{¶1} Defendant-Appellant, Jermaine Franklin Brooks, appeals from the January 14, 2013 judgment of the Summit County Court of Common Pleas. This Court affirms.

I.

{¶2} In September of 2012, the Summit County Grand Jury indicted Mr. Brooks for felonious assault, in violation of R.C. 2903.11(A)(1)/(2), a felony of the second degree. Mr. Brooks initially pleaded not guilty but after negotiations, changed his plea to guilty. The section of the Revised Code under which Mr. Brooks was indicted requires the imposition of a prison term. Prior to sentencing, the State recommended a six-year prison term, and Mr. Brooks' trial counsel urged the trial court to impose a four-year prison term. The trial court accepted Mr. Brooks' guilty plea, and sentenced him to a five-year prison term.

{¶3} Mr. Brooks failed to timely appeal from this order, and filed pro-se motions for (1) a delayed appeal, and (2) the appointment of appellate counsel. This Court granted Mr. Brooks' motions.

II.

{¶4} On October 30, 2013, appellate counsel filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), stating that he had reviewed the record and concluded that there were no viable issues to be pursued on appeal. Mr. Brooks' counsel also moved to withdraw as counsel of record in this matter. The record indicates that Mr. Brooks was served with a copy of appellate counsel's brief, and this Court issued a magistrate's order affording Mr. Brooks an opportunity to raise arguments after review of the *Anders* brief. Mr. Brooks has not responded to the brief.

{¶5} 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. Summit No. 23857, 2008-Ohio-662, ¶ 6; *State v. Lowe*, 9th Dist. Lorain No. 97CA006758, 1998 WL 161274 (Apr. 8, 1998).

III.

{¶6} 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.

CARLA MOORE
FOR THE COURT

HENSAL, P. J.
WHITMORE, J.
CONCUR.

APPEARANCES:

EDDIE SIPPLEN, Attorney at Law, for Appellant.

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