

STATE OF OHIO                     )  
  )ss:  
COUNTY OF SUMMIT            )

IN THE COURT OF APPEALS  
NINTH JUDICIAL DISTRICT

STATE OF OHIO

C.A. No.       27604

Appellee

v.

TOROY THOMAS

APPEAL FROM JUDGMENT  
ENTERED IN THE  
COURT OF COMMON PLEAS  
COUNTY OF SUMMIT, OHIO  
CASE No.     CR 2013 11 3240

Appellant

DECISION AND JOURNAL ENTRY

Dated: September 30, 2016

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MOORE, Presiding Judge.

{¶1} Defendant, Toroy Thomas, appeals from the judgment of the Summit County Court of Common Pleas. This Court affirms.

I.

{¶2} In 2013, Mr. Thomas was charged with OVI with an attendant specification, possession of cocaine, driving under suspension, and possession of drug paraphernalia. Mr. Thomas initially pleaded not guilty to the charges. Thereafter, pursuant to a plea agreement, Mr. Thomas pleaded guilty to the charges of OVI with its attendant specification, possession of cocaine, and driving under suspension. Upon the recommendation of the prosecutor, the trial court dismissed the charge of possession of drug paraphernalia. Thereafter, the trial court imposed sentence in a journal entry dated June 6, 2014.

{¶3} Mr. Thomas failed to timely appeal from the sentencing entry, and thereafter, he filed a pro se motion for a delayed appeal. This Court granted Mr. Thomas' motion, and, based

upon the trial court's determination that Mr. Thomas was indigent, this Court appointed appellate counsel.

## II.

{¶4} On February 23, 2015, 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. Thomas' counsel also moved to withdraw as counsel of record in this matter. The record indicates that Mr. Thomas was served with a copy of appellate counsel's brief, and this Court issued a magistrate's order affording Mr. Thomas an opportunity to raise arguments after review of the *Anders* brief. Mr. Thomas has not responded to the brief.

{¶5} In his *Anders* brief, appellate counsel addressed two possible issues for appeal, but concluded that they were not viable. Upon this Court's own full, independent examination of the record before us, we agree that there are not appealable, non-frivolous issues in this case. *State v. Randles*, 9th Dist. Summit No. 23857, 2008-Ohio-662, ¶ 6; *State v. Lowe*, 9th Dist. Lorain No. 97CA006758, 1998 WL 161274, \*2 (Apr. 8, 1998). Accordingly, we grant appellate counsel's motion to withdraw.

## 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.

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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.

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CARLA MOORE  
FOR THE COURT

WHITMORE, J.  
HENSAL, J.  
CONCUR.

APPEARANCES:

EDDIE SIPPLEN, Attorney at Law, for Appellant.

SHERRI BEVAN WALSH, Prosecuting Attorney, and RICHARD S. KASAY, Assistant Prosecuting Attorney, for Appellee.