

[Cite as *State v. White*, 2017-Ohio-5502.]

**IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
MONTGOMERY COUNTY**

STATE OF OHIO	:	
	:	
<i>Plaintiff-Appellee</i>	:	Appellate Case No. 27310
	:	
v.	:	Trial Court Case No. 2016-CR-966
	:	
DEONTE C. WHITE	:	(Criminal Appeal from
	:	Common Pleas Court)
<i>Defendant-Appellant</i>	:	
	:	

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OPINION

Rendered on the 23rd day of June, 2017.

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MATHIAS H. HECK, JR., by ANDREW T. FRENCH, Atty. Reg. No. 0069384, Assistant Prosecuting Attorney, Montgomery County Prosecutor's Office, Appellate Division, Montgomery County Courts Building, 301 West Third Street, Dayton, Ohio 45422
Attorney for Plaintiff-Appellee

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Attorney for Defendant-Appellant

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TUCKER, J.

{¶ 1} Deonte White was indicted on May 13, 2016 on one count of rape of an individual under the age of thirteen years in violation of R.C. 2907.02(A)(1)(b). White,

on September 21, 2016, entered a no contest plea to a Bill of Information for Rape (force or threat of force) in violation of R.C. 2907.02(A)(2), with the trial court finding White guilty of the offense. The trial court, on October 5, 2016, sentenced White to a mandatory prison term of six years. The trial court, during the sentencing hearing, designated White a Tier III sexual offender, with this designation statutorily mandated by White's rape conviction.

{¶ 2} White, on October 24, 2016, filed an appeal to this court. Counsel was appointed to represent White on appeal.

{¶ 3} Appellate counsel, on March 1, 2017, filed a brief under *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), stating "counsel discovered no issues of error[.]" and requesting this court to "independently review [the] case to determine whether any possible error exists that counsel may have overlooked." *Anders* brief at 3.

{¶ 4} Counsel, consistent with his duty under *Anders*, did articulate two errors which he concluded were not prejudicial. The first occurred at the October 24 sentencing hearing when the trial court, when informing White of his Tier III registration requirements, used the words "14 years" when the correct statement was "14 days". (Tr. pg. 11) However, as counsel pointed out, the entry designating White as a Tier III sexual offender correctly states that if White, following his prison release, is an Ohio resident but is employed in another state for more than 3 days or an aggregate of 14 days in a calendar year, he has registration requirements in the state he is so employed.

{¶ 5} The second purported error appellate counsel points out, again deemed by counsel as not prejudicial, is the trial court's failure at the sentencing hearing to advise

White of his appellate rights.

{¶ 6} Appellate counsel concludes the brief with a request for permission to withdraw as White's counsel. In an order filed on March 7, 2017, we informed White of the *Anders* filing and further informed him of his right to file a pro se brief within 60 days of March 7. White did not file a brief.

{¶ 7} It is concluded, as to the first articulated error, that the trial court's verbal mistake, stating "14 years" instead of "14 days," does not raise an appellate issue of arguable merit. The Tier III sexual offender designation order correctly sets forth White's registration obligations if he obtains employment in another state while remaining an Ohio resident. The designation order controls White's registration requirements making the trial court's verbal miscue of no consequence.

{¶ 8} It is also concluded, turning to the second noted error, that the trial court's failure to advise White of his appellate rights does not raise an appellate issue of arguable merit. Assuming the trial court, given the nature of the offense and the sentence imposed, had a duty under Crim.R. 32(B) to inform White of his appellate rights, White filed a timely appeal thereby eliminating any potentially meritorious appellate argument concerning the trial court's failure to advise White of his appellate rights.

{¶ 9} We have, in addition to our consideration of the two issues raised by counsel, performed our duty under *Anders* to conduct an independent review of the record. This review includes a thorough review of the *Anders* brief, the plea and sentencing transcript, the plea and sentencing entries, and the Tier III registration order. This review has revealed no arguably meritorious errors regarding any issue including the trial court's compliance with Crim.R. 11 or any other aspect of White's no contest plea and the trial

court's compliance with Crim.R. 32 or any other aspect of White's sentence.

{¶ 10} We have not, in conclusion, found any non-frivolous issues for review.

Counsel's motion to withdraw is granted. The trial court's judgment is affirmed.

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FROELICH, J. and WELBAUM, J., concur.

Copies mailed to:

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Hon. Barbara P. Gorman