

[Cite as *State v. Lynch*, 2009-Ohio-1824.]

STATE OF OHIO)
)ss:
COUNTY OF LORAIN)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

STATE OF OHIO

C.A. No. 08CA009434

Appellee

v.

CEDRIC LYNCH

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF LORAIN, OHIO
CASE No. 02CR061052

Appellant

DECISION AND JOURNAL ENTRY

Dated: April 20, 2009

CARR, Judge.

{¶1} Appellant, Cedric Lynch, appeals the judgment of the Lorain County Court of Common Pleas, which resentenced him in regard to prior convictions. This Court affirms.

I.

{¶2} On August 21, 2002, Lynch was indicted on numerous counts. After a bench trial, he was convicted of counts one, three and eleven. The trial court sentenced him to a total of seven years in prison. Lynch appealed his convictions and this Court affirmed. *State v. Lynch*, 9th Dist. No. 04CA008531, 2005-Ohio-2401.

{¶3} Lynch later filed a motion to vacate a void judgment, which this Court construed as a petition for post-conviction relief. This Court again affirmed the trial court's judgment. *State v. Lynch*, 9th Dist. No. 06CA008938, 2006-Ohio-5813.

{¶4} On April 16, 2008, Lynch filed a motion for resentencing because the trial court had failed to inform him at sentencing regarding post release control. The trial court granted the

motion and scheduled the matter for resentencing. Lynch filed a resentencing memorandum, attaching numerous exhibits in support of his request for leniency. Lynch was present for the resentencing hearing on June 16, 2008. Both defense counsel and Lynch argued in support of leniency. The trial court resentenced Lynch to the identical prison term it originally imposed. After filing two resentencing judgment entries which contained typographical errors, the trial court issued an amended judgment entry of conviction and sentencing on February 12, 2009.

{¶5} Lynch appealed his resentencing. He moved the trial court for the appointment of counsel, but the trial court did not rule on the motion. Lynch moved this Court for the appointment of appellate counsel, and this Court appointed counsel for purposes of appeal. On January 8, 2009, Lynch's counsel filed a brief pursuant to *Anders v. California* (1967), 386 U.S. 738, and requested permission to withdraw from further representation of Lynch in regard to this appeal. On February 6, 2009, Lynch responded to counsel's *Anders* brief. The State responded to both briefs on February 19, 2009.

II.

{¶6} Lynch's counsel does not raise any assignments of error. Rather, pursuant to *Anders*, supra, he asserts that he is unable to identify any appealable issues regarding Lynch's resentencing. This Court agrees.

{¶7} In Lynch's response to his counsel's *Anders* brief, Lynch fails to enunciate any specific assignments of error. He appears to argue that the trial court erred by prohibiting him from presenting mitigating evidence in support of a lesser sentence and that trial counsel was ineffective for failing to object to the trial court's alleged prohibition against the admission of mitigating evidence. However, he has not presented any argument within the context of any

assigned error. Accordingly, “we will not create an argument on his behalf.” *In re G.E.S.*, 9th Dist. No. 23963, 2008-Ohio-2671, at ¶53.

{¶8} Upon this Court’s own full, independent examination of the record before us, we agree that there are no appealable, non-frivolous issues in this case. See *State v. Lowe* (Apr. 8, 1998), 9th Dist. No. 97CA006758.

III.

{¶9} The judgment of the Lorain County Court of Common Pleas is affirmed. Appellate counsel’s motion to withdraw as counsel is hereby granted.

Judgment affirmed.

The Court finds that 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 Lorain, 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(E). 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.
WHITMORE, J.
CONCUR

APPEARANCES:

CEDRIC LYNCH, Appellant, pro se.

KENNETH N. ORTNER, Attorney at Law, for Appellant.

DENNIS P. WILL, Prosecuting Attorney, and BILLIE JO BELCHER, Assistant Prosecuting Attorney, for Appellee.