

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
SANDUSKY COUNTY

State of Ohio

Court of Appeals No. S-16-040

Appellee

Trial Court No. 15 CR 1041

v.

Tadara D. Jones

DECISION AND JUDGMENT

Appellant

Decided: September 8, 2017

* * * * *

Mike DeWine, Ohio Attorney General, and Christopher L. Kinsler,
Assistant Attorney General, for appellee.

Brett A. Klimkowsky, for appellant.

* * * * *

JENSEN, P. J.

{¶ 1} Appellant, Tadara Jones, appeals from the judgment of the Sandusky County Court of Common Pleas which found appellant guilty of two counts of trafficking in cocaine in violation of R.C. 2925.03, both felonies of the fourth degree.

{¶ 2} Appellant entered a guilty plea to the charges on July 12, 2016. A week prior to his sentencing, appellant moved the court to withdraw his guilty plea. On September 26, 2016, appellant appeared before the court for sentencing at which time the court held a hearing to address the plea-withdrawal matter. The court denied the motion, finding the request was based on a change of heart, and proceeded to sentence appellant to 36 months incarceration immediately after denying the motion.

{¶ 3} Based upon the belief that no prejudicial error occurred by the trial court, appointed counsel in this appeal has filed a no-error brief and motion to withdraw pursuant to *Anders v. California*, 386 U.S. 783, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967) and 6th Dist.Loc.App.R. 10(G). Appellee, the state of Ohio, waived the filing of a brief.

{¶ 4} Based on our full and thorough examination of the proceedings, we find one potential assignment of error, which we decline to assess on its merits. *See State v. Czech*, 6th Dist. Lucas No. L-13-1141, 2014-Ohio-3990, ¶ 16.

{¶ 5} The potential error we find is the trial court's failure to address appellant personally at the time of sentencing as required by Crim.R. 32(A)(1).

{¶ 6} Accordingly, “[b]ecause an *Anders* brief is not a substitute for an appellate brief on the merits, we must ‘appoint counsel to pursue the appeal and direct that counsel is to prepare an advocate’s brief * * *’ before we can decide the merit of the issue.” *State v. Hopkins*, 6th Dist. Lucas No. L-10-1127, 2011-Ohio-4144, ¶ 11, quoting *McCoy v. Court of Appeals of Wisconsin, District 1*, 486 U.S. 429, 444, 108 S.Ct. 1895, 100 L.Ed.2d 440 (1988).

{¶ 7} Appointed counsel’s motion to withdraw is found well-taken and is, hereby, granted. We appoint Nathan Oswald, 300 Madison Avenue, 10th Floor, Toledo, Ohio 43604, as appellate counsel and advocate in this matter, and direct him to prepare an appellate brief discussing the arguable issue identified in this decision, and any further arguable issues that may be found in the record within 30 days of the date of this decision and judgment. The remaining briefing schedule shall proceed in accordance with App.R. 18. The clerk is ordered to serve by regular mail all parties, including Tadora Jones, with notice of this decision.

Motion granted.

Mark L. Pietrykowski, J.

JUDGE

James D. Jensen, P.J.

JUDGE

Christine E. Mayle, J.
CONCUR.

JUDGE