

[Cite as *State v. Smith*, 2002-Ohio-4379.]

IN THE COURT OF APPEALS
TWELFTH APPELLATE DISTRICT OF OHIO
MADISON COUNTY

STATE OF OHIO, :
 :
 Plaintiff-Appellee, : CASE NO. CA2001-11-024
 :
 - vs - : D E C I S I O N
 : 8/26/2002
 :
 :
 DAVID E. SMITH, JR., :
 :
 Defendant-Appellant. :

CRIMINAL APPEAL FROM MUNICIPAL COURT

Mark J. Pitstick, 26 South Main Street, P.O. Box 189, London,
Ohio 43140, for plaintiff-appellee

Christopher M. Alexander, 8050 Hosbrook, Suite 200, Cincinnati,
Ohio 45236, for defendant-appellant

Per Curiam.

{¶1} This cause came on to be considered upon a notice of appeal, the transcript of the docket and journal entries, the transcript of proceedings and original papers from the Madison County Court of Common Pleas, and upon a brief filed by appellant's counsel, oral argument having been waived.

{¶2} Counsel for defendant-appellant, David E. Smith, Jr., has filed a brief with this court pursuant to Anders v.

California (1967), 386 U.S. 738, 87 S.Ct. 1396, which (1) indicates that a careful review of the record from the proceedings below fails to disclose any errors by the trial court prejudicial to the rights of appellant upon which an assignment of error may be predicated; (2) lists one potential error "that might arguably support the appeal," Anders at 744, 87 S.Ct. at 1400; (3) requests that this court review the record independently to determine whether the proceedings are free from prejudicial error and without infringement of appellant's constitutional rights; (4) requests permission to withdraw as counsel for appellant on the basis that the appeal is wholly frivolous; and (5) informs this court that counsel has diligently attempted to locate appellant in order to serve appellant with a copy of both the brief and motion to withdraw, but, despite such diligent efforts, has been unable to locate appellant.

{¶3} Having allowed appellant sufficient time to respond, and no response having been received, we have accordingly examined the record and find no error prejudicial to appellant's rights in the proceedings in the trial court. We further find that appellant has not been prejudiced by counsel's inability to serve him with a copy of the brief and motion to withdraw. Therefore, the motion of counsel for appellant requesting to withdraw as counsel is granted, and this appeal is dismissed for the reason that it is wholly frivolous.

WALSH, P.J., YOUNG and VALEN, JJ., concur.