

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

STATE OF OHIO, :
 :
 Plaintiff-Appellee, : CASE NO. CA2006-06-016
 :
 - vs - : DECISION
 : 11/20/2006
 :
 MONTY R. OLIVER, :
 :
 Defendant-Appellant. :

CRIMINAL APPEAL FROM PREBLE COUNTY COURT OF COMMON PLEAS
Case No. 05-CR-9448

Martin Votel, Preble County Prosecuting Attorney, Kathryn M. Worthington, 101 East Main Street, Courthouse, First Floor, Eaton, OH 45320, for plaintiff-appellee

Stephen R. Bruns, 123 West Main Street, Eaton, OH 45320, for defendant-appellant

Monty R. Oliver, 80 East US 40, Apartment 17, Lewisburg, OH 45338, pro se

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 Preble County Court of Common Pleas, and upon the brief filed by appellant's counsel and the pro se brief of appellant, Monty R. Oliver, oral argument having been waived.

{¶2} Counsel for defendant-appellant, Money R. Oliver, 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) certifies that a copy of both the brief and motion to withdraw have been served upon appellant.

{¶3} Appellant has a filed a pro se brief asking the court to "lessen the degree allocated to [the] case." We have accordingly examined the record, the potential assignment of error presented in counsel's brief and the argument in appellant's pro se brief and find no error prejudicial to appellant's rights in the proceeding in the trial court. 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 BRESSLER, JJ., concur.

[Cite as *State v. Oliver*, 2006-Ohio-6082.]