

[Cite as *State v. Harrison*, 2010-Ohio-3561.]

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

STATE OF OHIO, :
 :
 Plaintiff-Appellee, : CASE NO. CA2009-11-284
 :
 - vs - : DECISION
 : 8/2/2010
 :
 VERNON CHARLES HARRISON, :
 :
 Defendant-Appellant. :

CRIMINAL APPEAL FROM BUTLER COUNTY COURT OF COMMON PLEAS
Case Nos. CR2009-06-1051

Robin N. Piper III, Butler County Prosecuting Attorney, Michael A. Oster, Jr.,
Government Services Center, 315 High Street, 11th Floor, Hamilton, OH 45011-6057, for
plaintiff-appellee

Charles M. Conliff, 5145 Pleasant Avenue, Suite 18, P.O. Box 18424, Fairfield, Ohio
48018-0424, 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 Butler County Court of Common Pleas, and upon the brief filed by
appellant's counsel, oral argument having been waived.

{¶2} Counsel for defendant-appellant, Vernon Charles Harrison, 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 eight potential errors "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} 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. However, for purposes of consistency, we reverse and remand to the trial court with instructions as follows:

{¶4} While this case was pending on appeal to this court, appellant was resentenced. The reason for the resentencing was to correct an error with respect to imposition of post-release control. It appears that while appellant was properly notified about post-release control at his original sentencing hearing, the sentencing entry filed after the hearing was inaccurate and did not reflect the notification made at the sentencing hearing.

{¶5} Under these circumstances, this court has found that the erroneous notification in the judgment entry is a clerical error which may be corrected by a nunc pro tunc entry which accurately reflects the sentence imposed by the trial court at the sentencing hearing. See *State v. Harrison*, Butler App. No. CA2009-10-272, 2010-Ohio-2709. Because the record contains no other error, the omission described above

constitutes plain error which we may take immediate action to remedy. See *Harrison; Penson v. Ohio*, (1998), 488 U.S. 75, 109 S.Ct. 346.

{¶6} Therefore, it is the order of this court that the motion of counsel for appellant requesting to withdraw as counsel is granted. This cause is reversed and the matter is remanded with instructions directing the trial court to prepare a nunc pro tunc sentencing entry which accurately reflects the proceedings which took place at appellant's October 15, 2009 sentencing hearing.

POWELL, P.J., RINGLAND and HENDRICKSON, JJ., concur.