

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

State of Ohio

Court of Appeals No. WD-10-043

Appellee

Trial Court No. 10 CR 079

v.

Demetrius Wright

**DECISION AND JUDGMENT**

Appellant

Decided: July 22, 2011

\* \* \* \* \*

Jeffrey P. Nunnari, for appellant.

\* \* \* \* \*

HANDWORK, J.

{¶ 1} Appellant, Demetrius Wright, appeals his conviction on one count of burglary. Appellant contends that his guilty plea was not entered knowingly, voluntarily, and intelligently. For the following reasons, we affirm the judgment of the Wood County Court of Common Pleas.

{¶ 2} Appellant was charged with one count of burglary in violation of R.C. 2911.12(A)(4), a felony of the fourth degree, pursuant to a bill of information filed on February 18, 2010. He entered a plea of not guilty on March 15, 2010, and requested that the matter be set for a change of plea hearing. On April 19, 2010, appellant entered a plea of guilty to the offense of burglary as charged. The trial court sentenced him to 16 months in jail and ordered that he pay restitution in the amount of \$628.

{¶ 3} Appellant's appointed counsel has submitted a request to withdraw pursuant to *Anders v. California* (1967), 386 U.S. 738. In support, counsel states that after reviewing the record of proceedings in the trial court, he was unable to ascertain a potentially meritorious issue for appeal. In conformity with *Anders*, counsel has simultaneously submitted a brief with the following proposed assignment of error:

{¶ 4} "Whether the trial court properly advised the appellant of the effect of his plea of guilty at the time of the acceptance of said plea?"

{¶ 5} The procedure to be followed by appointed counsel who desires to withdraw for want of a meritorious, appealable issue is set forth in *Anders*, supra, and *State v. Duncan* (1978), 57 Ohio App.2d 93. In *Anders*, the United States Supreme Court held that if counsel, after a conscientious examination of the case, determines it to be wholly frivolous, he or she should so advise the court and request permission to withdraw. *Id.* at 744. This request, however, must be accompanied by a brief identifying anything in the record that might arguably support the appeal. *Id.* Counsel must also furnish his or her

client with a copy of the brief and allow the client sufficient time to raise any points that he or she chooses. Id.

{¶ 6} Once these requirements are satisfied, the appellate court must then conduct a full examination of the proceedings held below to determine if the appeal is indeed frivolous. If the appellate court determines that the appeal is frivolous, it may grant counsel's request to withdraw and dismiss the appeal without running afoul of federal constitutional requirements, or it may proceed to a decision on the merits if state law so requires. Id.

{¶ 7} In this case, appointed counsel for appellant has fully satisfied the requirements set forth in *Anders*. In addition, appellant was properly notified of his right to file an appellate brief on his own behalf, but has neither filed a pro se brief nor otherwise responded to his counsel's request to withdraw. Thus, this court will now proceed with an examination of the proposed assignment of error and the entire record of the proceedings below to determine if this appeal lacks merit and is, therefore, wholly frivolous.

{¶ 8} As to the error proposed by appellant's counsel, at no time during the plea proceedings did appellant claim his innocence. He is presumed, therefore, to have understood that a plea of guilty is a complete admission of guilt and to have suffered no prejudice. *State v. Griggs*, 103 Ohio St.3d 85, 2004-Ohio-4415, syllabus. In addition, appellant signed a "PLEA OF GUILTY TO BILL OF INFORMATION" form, which stated, "I understand that a plea of guilty is a complete admission of guilty (sic) \* \* \*."

Also, before being bound over to the Wood County Court of Common Pleas, appellant signed a document in the Bowling Green Municipal Court in which he acknowledged his understanding that "a plea of 'GUILTY' is a complete admission of guilt as charged." Under these circumstances, the trial court's error in failing to advise appellant at the plea hearing that the effect of his guilty plea would be a complete admission of guilt is entirely harmless. *State v. Jones*, 116 Ohio St.3d 211, 2007-Ohio-6093, ¶ 52-55; *State v. Burrell*, 8th Dist. No. 95512, 2011-Ohio-2533, ¶ 12.

{¶ 9} By the same token, the trial court's failure to orally apprise appellant of the potential maximum fine, in addition to the maximum prison term, for the offense of burglary was harmless. In his written plea of guilty, appellant acknowledged his understanding that a maximum fine of \$5,000 could be imposed. Moreover, the trial court did not impose a fine. Accordingly, appellant's proposed assignment of error is without any arguable merit.

{¶ 10} Our own examination of the record reveals no other point of arguable merit. Accordingly, appellant's appeal is wholly frivolous. Appellate counsel's motion to withdraw is found well-taken and hereby granted.

{¶ 11} The judgment of the Wood County Court of Common Pleas is affirmed. Appellant is ordered to pay the costs of this appeal pursuant to App.R. 24. The clerk is ordered to serve, by regular mail, all parties, including Demetrius Wright, with notice of this decision.

JUDGMENT AFFIRMED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4.

Peter M. Handwork, J.

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JUDGE

Mark L. Pietrykowski, J.

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JUDGE

Stephen A. Yarbrough, J.  
CONCUR.

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JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:  
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.