

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

STATE OF OHIO, :
 :
 Plaintiff-Appellee, : CASE NO. CA2009-06-172
 :
 - vs - : DECISION
 : 8/23/2010
 :
 CATHY L. EMMONS, :
 :
 Defendant-Appellant. :

CRIMINAL APPEAL FROM BUTLER COUNTY COURT OF COMMON PLEAS
Case No. CR2009-03-0424

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

Brian K. Harrison, P.O. Box 80, Monroe, Ohio 45050, 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 a brief filed by appellant's counsel, oral argument having been waived.

{¶2} Counsel for defendant-appellant, Cathy L. Emmons, 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 two 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 in the proceedings below. However, for purposes of consistency, we reverse and remand to the trial court with instructions as follows:

{¶4} Appellant was sentenced on May 21, 2009 for one count of aggravated theft, a third-degree felony. As such, appellant was subject to a discretionary three-year period of postrelease control. See R.C. 2967.28. At the sentencing hearing, the trial court properly informed appellant that on her release from prison, she "may be subjected to a three year period of post-release control." The sentencing entry, however, incorrectly states that the court "notified appellant that post release control is mandatory in this cases for three years * * * ."

{¶5} In *State v. Harrison*, Butler App. No. CA2009-10-272, 2010-Ohio-2709, this court held that under similar circumstances 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, also, *State v. Harrison*, Butler App. CA2009-11-284, 2010-Ohio-3561.

{¶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 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 May 21, 2009 sentencing hearing.

YOUNG, P.J., BRESSLER and HENDRICKSON, JJ., concur.