

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

STATE OF OHIO,	:	
	:	
Plaintiff-Appellee,	:	CASE NO. CA2014-07-007
	:	
- vs -	:	<u>DECISION</u>
	:	4/13/2015
	:	
PATRICK M. VOLK,	:	
	:	
Defendant-Appellant.	:	

CRIMINAL APPEAL FROM PREBLE COUNTY COURT OF COMMON PLEAS  
Case No. 12CR011005

Martin P. Votel, Preble County Prosecuting Attorney, Preble County Courthouse, 101 East Main Street, Eaton, Ohio 45320, for plaintiff-appellee

Kirsten Knight, P.O. Box 137, Germantown, Ohio 45327, 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 Preble County Court of Common Pleas, and upon the brief filed by appellant's counsel.

{¶ 2} Counsel for defendant-appellant, Patrick Volk, has filed a brief with this court pursuant to *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396 (1967), 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} 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 except as set forth below.

{¶ 4} Appellant was sentenced on three fifth-degree felonies, each of which required the trial court to inform appellant that he is subject to a period of postrelease control up to three years. R.C. 2967.28(C). Appellant was also sentenced on a second-degree felony, which required the trial court to inform appellant that he is subject to a mandatory three-year period of postrelease control. R.C. 2967.28(B). The trial court was also required to inform appellant of the consequences of violating postrelease control. See R.C. 2929.19(B)(2)(e).

{¶ 5} The trial court's notification at the sentencing hearing failed to properly inform appellant of the terms of postrelease control and the consequences for a violation. Accordingly, postrelease control was not properly imposed in this case. The Ohio Supreme Court has held that in cases where a defendant is sentenced after July 11, 2006, R.C. 2929.191 provides a mechanism for a trial court to correct the improper imposition of postrelease control. *State v. Singleton*, 124 Ohio St.3d 173, 2009-Ohio-6434.

{¶ 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 to the trial court for the limited purpose of holding a resentencing hearing to

correct the imposition of postrelease control pursuant to the procedures outlined in R.C.  
2929.191.

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