

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-070677
	:	TRIAL NO. 06CRB-26389
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
ANTONIO COLBERT,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Defendant-appellant Antonio Colbert appeals his conviction for assault, in violation of 2903.13, following a bench trial in Hamilton County Municipal Court. During an altercation with a Queen City Metro bus driver, Colbert struck the driver's head and shoulder with his umbrella. The trial court found Colbert guilty and imposed the maximum, 180-day term of imprisonment. The trial court also credited Colbert with time already served in confinement.

Pursuant to *Anders v. California*,² Colbert's appointed appellate counsel has advised this court that, after a thorough review of the record, he can find nothing that would arguably support Colbert's appeal. Appellate counsel has communicated his conclusion to Colbert and has moved this court for permission to withdraw as counsel.³ In

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

² (1967), 386 U.S. 738, 87 S.Ct. 1396.

³ See id. at 744, 87 S.Ct. 1396.

his brief, appointed counsel states that Colbert believes that his conviction was the result of the destruction of potentially exculpatory evidence and that he was denied the right to a jury trial.

Counsel now requests that this court independently examine the record to determine whether the appeal is wholly frivolous.⁴ We have done so, and we concur in counsel's conclusion that the proceedings below were free of error prejudicial to Colbert. We, therefore, overrule counsel's motion to withdraw from his representation of Colbert and affirm the judgment of the trial court.

Our determination that the proceedings below were free of prejudicial error also compels our conclusion that there were no reasonable grounds for this appeal. But because of Colbert's indigency, we allow no penalty.

A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HILDEBRANDT, P.J., CUNNINGHAM and DINKELACKER, JJ.

To the Clerk:

Enter upon the Journal of the Court on June 11, 2008
per order of the Court _____.
Presiding Judge

⁴ See *id.*; see, also, *Freels v. Hills* (C.A.6, 1988), 843 F.2d 958.