

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

STATE OF OHIO,	:	APPEAL NO. C-070896
Plaintiff-Appellee,	:	TRIAL NO. B-9804876
vs.	:	
MICHAEL BENNETT,	:	<i>JUDGMENT ENTRY</i>
Defendant-Appellant.	:	

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

Defendant-appellant Michael Bennett appeals his conviction for one count of voluntary manslaughter with a gun specification in violation of R.C. 2903.03(A). On July 21, 1998, Bennett was indicted on one count of murder with a gun specification and one count of voluntary manslaughter with a gun specification, but the state dismissed the charge of murder in exchange for Bennett's guilty plea. The trial court conducted the required colloquy, accepted the plea, and found Bennett guilty. After reviewing the pre-sentence-investigation report and the victim-impact statements, the trial court imposed a cumulative prison term of 13 years. Because Bennett's sentence did not include post-release control, he was returned to the court for resentencing. On December 11, 2007, the court resentenced Bennett to the same term of imprisonment imposed previously and

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

notified him of post-release-control sanctions. The journal entry for the resentencing hearing reflects a period of five years' post-release control.

On appeal, Bennett's appointed appellate counsel has filed a brief pursuant to *Anders v. California*,<sup>2</sup> advising this court that, after a thorough review of the record, she can find nothing that would arguably support the appeal. Appellate counsel has communicated her conclusion to Bennett and has moved this court for permission to withdraw as counsel.<sup>3</sup> Bennett has not responded.

Counsel now requests that this court independently examine the record to determine whether the appeal is wholly frivolous.<sup>4</sup> We have done so, and we concur in counsel's conclusion that the proceedings below were free of error prejudicial to Bennett. We, therefore, overrule counsel's motion to withdraw from her representation of Bennett 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 are no reasonable grounds for this appeal. But because of Bennett'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., PAINTER and CUNNINGHAM, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on October 29, 2008  
per order of the Court \_\_\_\_\_.  
Presiding Judge

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<sup>2</sup> (1967), 386 U.S. 738, 87 S.Ct. 1396.

<sup>3</sup> See *id.* at 744, 87 S.Ct. 1396.

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