

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

STATE OF OHIO,	:	APPEAL NO. C-080904
		TRIAL NO. B-0610774
Plaintiff-Appellee,	:	
		<i>JUDGMENT ENTRY.</i>
vs.	:	
DANIEL J. O'SHEA,	:	
Defendant-Appellant.	:	

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

Following a plea agreement, defendant-appellant, Daniel J. O'Shea, was convicted of one count of gross sexual imposition under R.C. 2907.05(A) and sentenced to five years of community control. After he violated the conditions of his community control, the trial court revoked his community control and sentenced him to two years' imprisonment.

As provided in *Anders v. California*,² O'Shea's appointed counsel has advised this court that, after a thorough review of the record, he can discern no arguable assignments of error to present on appeal. He has advised O'Shea of this determination, and O'Shea has not responded. O'Shea's counsel now asks this court to conduct an independent review of the record to determine whether the proceedings

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.

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below were free from prejudicial error.³ He has also filed a motion to withdraw as O'Shea's counsel.

After reviewing the entire record, we are satisfied that O'Shea's counsel has provided his client with a diligent and thorough search of the record and he has correctly concluded that the proceedings below were free from prejudicial error.⁴ We hold that no grounds exist to support a meritorious appeal. Therefore, we affirm the trial court's judgment and overrule counsel's motion to withdraw. We find the appeal to be frivolous under App.R. 23 and R.C. 2505.35, but refrain from taxing costs and expenses against O'Shea because he is clearly indigent.

Further, 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.

HENDON, P.J., SUNDERMANN and DINKELACKER, JJ.

To the Clerk:

Enter upon the Journal of the Court on July 29, 2009

per order of the Court _____.
Presiding Judge

³ See *State v. Dorsey*, 1st Dist. No. C-070147, 2007-Ohio-5869; *State v. Mackey* (Dec. 17, 1999), 1st Dist. No. C-990302; *Freels v. Hills* (C.A.6, 1988), 843 F.2d 958.

⁴ See *Penson v. Ohio* (1988), 488 U.S. 75, 109 S.Ct. 346; *Dorsey*, supra.