

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

STATE OF OHIO,	:	APPEAL NOS. C-090431
		C-090460
Plaintiff-Appellee,	:	TRIAL NOS. B-0809876
		B-0809338
vs.	:	
		<i>JUDGMENT ENTRY.</i>
AZARIAH BIGGERS,	:	
Defendant-Appellant.	:	

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

In separate cases, defendant-appellant Azariah Biggers pleaded guilty to three counts of aggravated robbery with accompanying gun specifications on each count. The trial court accepted Biggers's guilty plea and imposed the agreed sentence of eight years' incarceration.

On appeal, counsel for Biggers has filed a brief in accordance with *Anders v. California*,<sup>2</sup> stating that counsel has conscientiously reviewed the record and has found no grounds on which to appeal. Counsel requests permission to withdraw and, as required by *Anders*, requests that this court independently examine the record to determine if the proceedings below were free of prejudicial error. Counsel has properly notified Biggers of the filing of this *Anders* brief, providing sufficient time

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

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

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for Biggers to present grounds for this appeal. After examining the entire record, we are satisfied that counsel has provided Biggers with a diligent and thorough review of the proceedings, and that counsel has correctly concluded that the proceedings below resulted in no prejudicial error. But we note that the trial court failed to journalize its assessment of costs in the judgment entry. The Sixth Appellate District faced a similar situation in *State v. Harmon*<sup>3</sup> and remanded the case to the trial court for the imposition of mandatory costs under R.C. 2947.23. We likewise remand this case to the trial court to impose mandatory costs under R.C. 2947.23.

Biggers's appeal is otherwise without merit and is wholly frivolous. Therefore, we overrule counsel's motion to withdraw and affirm the judgment of the trial court. This case is remanded to the trial court so that its judgment may be modified to include its assessment of costs.

Although we hold that this appeal is frivolous under App.R. 23 and without "reasonable cause" under R.C. 2505.35, we refrain from taxing costs and expenses against Biggers because he is clearly indigent. Further, a certified copy of this Judgment Entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**HILDEBRANDT, P.J., DINKELACKER and MALLORY, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on April 7, 2010

per order of the Court \_\_\_\_\_.  
Presiding Judge

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<sup>3</sup> 6th Dist. No. L-05-1078, 2006-Ohio-4642.