

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

STATE OF OHIO,	:	APPEAL NO. C-110223
	:	TRIAL NO. B-1008623
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
JAMES MUTH,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. See S.Ct.R.Rep.Op. 3(A); App.R. 11.1(E); Loc.R. 11.1.1.

Defendant-appellant James Muth was convicted, after having entered a plea of guilty, of one count of theft. He was sentenced to three years of community control, ordered to complete drug treatment at River City, and ordered to pay restitution to Sam's Club.

After a thorough review of the record, appointed counsel has advised this court that there are no arguable assignments of error to present on appeal. See *Anders v. California* (1967), 386 U.S. 738, 87 S.Ct. 1396. Counsel has advised Muth of this determination and has asked this court to conduct an independent review of the record to determine whether the proceedings below were free from prejudicial error. See *Freels v. Hills* (C.A.6, 1988), 843 F.2d 958; *State v. Mackey* (Dec. 17, 1999), 1st Dist. No. C-990302. Counsel has also asked to withdraw as Muth's attorney.

After reviewing the record, we agree that the proceedings below were free from prejudicial error. See *Penson v. Ohio* (1988), 488 U.S. 75, 109 S.Ct. 346. Accordingly, we affirm the trial court's judgment and overrule counsel's motion to

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withdraw. We find the appeal to be frivolous, but refrain from taxing costs or expenses because Muth is clearly indigent.

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

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

To the clerk:

Enter upon the journal of the court on January 13, 2012
per order of the court _____.
Presiding Judge

