

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

STATE OF OHIO,	:	APPEAL NO. C-190550
Plaintiff-Appellee,	:	TRIAL NOS. B-1702916
		B-1503778
vs.	:	B-1403009
KEVIN BOLWARE,	:	
Defendant-Appellant.	:	<i>JUDGMENT ENTRY.</i>

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant Kevin Bolware’s appointed counsel has advised this court that, after a thorough review of the record, he can find nothing that would arguably support appellant’s appeal, and that the appeal is wholly frivolous. *See Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967); *see also Freels v. Hills*, 843 F.2d 958 (6th Cir.1988). Counsel, as required by *Anders*, has communicated this conclusion to appellant, and has offered appellant an opportunity to respond and to raise any issues. Counsel has also moved this court for permission to withdraw as counsel. *See Anders* at 744; *see also* 1st Dist. Loc.R. 16.2(C)(1) and 16.2(D)(2).

Counsel now requests that this court independently examine the record to determine whether the appeal is wholly frivolous. *See Anders* at 744. We have done so, and we agree with counsel’s conclusion that the proceedings below were free of error prejudicial to appellant and that no grounds exist to support a meritorious appeal.

In particular, we look to our opinion in Mr. Bolware’s first appeal, *State v. Bolware*, 1st Dist. Hamilton Nos. C-170691, C-170692 and C-170693, 2018-Ohio-4434 (hereinafter “*Bolware I*”). In *Bolware I*, Mr. Bolware raised five assignments of error challenging his conviction and sentence for felonious assault. *Id.* at ¶ 1. We overruled Mr. Bolware’s first two assignments of error alleging prosecutorial misconduct, as well as his challenges to the weight and sufficiency of the evidence. *Id.* at ¶ 10, 13, 14. However, we agreed with Mr. Bolware that the trial court failed to make the required findings pursuant to R.C. 2929.14(C)(4) when it imposed consecutive sentences, and accordingly sustained his final assignment of error. *Id.* at ¶ 16, 17. We remanded the cause for the discrete purpose that the trial court “consider whether consecutive sentences are appropriate under R.C. 2929.14(C)(4) and, if so, [] make the required findings on the record and incorporate those findings in the sentencing journal entry.” *Id.* at ¶ 17.

Because “[r]es judicata bars the litigation of all claims that either were or might have been litigated in a first lawsuit,” we cannot now reconsider issues that Mr. Bolware could or should have raised on direct appeal. *Hughes v. Calabrese*, 95 Ohio St.3d 334, 2002-Ohio-2217, 767 N.E.2d 725, ¶ 12. We have already reviewed the full record of Mr. Bolware’s trial and affirmed his conviction as supported by the weight and sufficiency of the evidence. *Bolware I* at ¶ 13, 14. The only potential issue in this appeal, then, is whether the trial court properly imposed consecutive sentences on remand.

The record of Mr. Bolware’s re-sentencing hearing demonstrates that the trial court made the required findings to support consecutive sentences under R.C. 2929.14(C)(4). These findings were properly incorporated into the sentencing journal entry, and our review of the transcript of Mr. Bolware’s re-sentencing hearing confirmed the absence of

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any prejudicial error. Therefore, we overrule counsel's motion to withdraw from his representation of appellant, and affirm the judgment of the trial court.

We hold that this appeal is frivolous under App.R. 23 and without "reasonable cause" under R.C. 2505.35. But we refrain from taxing costs and expenses against appellant because he is 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.

MOCK, P.J., ZAYAS and BERGERON, JJ.

To the clerk:

Enter upon the journal of the court on November 25, 2020,
per order of the court_____.

Presiding Judge