

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

STATE OF OHIO,	:	APPEAL NO. C-240263
	:	TRIAL NO. B-2304411
Plaintiff -Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
ABDULLAH NEJIB,	:	
Defendant-Appellant.	:	

This court sua sponte removes this cause from the regular calendar and places it on the court’s accelerated calendar, Loc.R. 11.1(C)(1), and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); Loc.R. 11.1.

Defendant-appellant Abdullah Nejib pleaded guilty to one count of rape in violation of R.C. 2907.02(A)(1), a first-degree felony. Nejib and the State agreed to a recommended ten-to-15-year sentence.

The trial court held a plea hearing and accepted Nejib’s plea. At his sentencing hearing, it imposed the agreed ten-to-15-year sentence with credit for time served, plus five years of postrelease control. Nejib was classified as a Tier III sex offender. The trial court journalized the guilty finding, the sentence, its sentencing findings, and the notice provided to Nejib regarding his duty to register as a sex offender.

Nejib asked the trial court to appoint appellate counsel. The trial court granted his request, and Nejib appealed his conviction.

On appeal, Nejib’s counsel filed an *Anders* brief, asking to withdraw from the case because a conscientious review of the record revealed “no issues of arguable merit,” rendering this appeal frivolous. *See Anders v. California*, 386 U.S. 738 (1967). Counsel informed Nejib of that conclusion, but received no response. Nejib’s counsel asks us to independently review the record to determine whether an issue of arguable merit exists.

When counsel files an *Anders* brief, “constitutional requirement[s] of substantial equality and fair process” require this court to determine (1) whether counsel performed a diligent review of the record and communicated the conclusions to the appellant, and (2) whether an independent review of the record by this court reveals a nonfrivolous issue for

appeal. *Anders* at 744; see *Penson v. Ohio*, 488 U.S. 75, 83 (1988); see also *State v. Williams*, 2009-Ohio-4389, ¶ 11 (1st Dist.); Loc.R. 16.2.

If the appeal is indeed frivolous, we must overrule counsel’s request to withdraw and proceed to a decision on the merits. See *Pension* at 82; see also *State v. Green*, 2018-Ohio-2378, ¶ 3 (1st Dist.). But if an independent review reveals issues that are “arguable on their merits and prejudicial to the defendant,” we must appoint counsel to represent the appellant. *Green* at ¶ 3, quoting *State v. Gilbert*, 2012-Ohio-1366, ¶ 6 (1st Dist.).

Counsel’s *Anders* brief satisfies Loc.R. 16.2, and demonstrates that counsel performed a diligent review of the record and communicated his conclusion to Nejib. We have independently reviewed the record and agree with counsel’s conclusion that there are no issues of arguable merit that are prejudicial to Nejib.

The plea hearing conformed with the mandates of Crim.R. 11. The trial court informed Nejib of his rights, and the rights he was waiving by pleading guilty. It ensured that Nejib’s plea was made knowingly, intelligently, and voluntarily. The sentencing hearing conformed with the mandates of Crim.R. 32. It also informed Nejib of his duty to register and verify his information as a Tier III sex offender. See R.C. 2950.03. And his sentence is within the permissible range for a first-degree felony. See R.C. 2929.14(A)(1)(a).

We overrule counsel’s motion to withdraw from his representation of Nejib and affirm the trial court’s judgment. 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 Nejib because he is indigent.

The court further orders that 1) a copy of this Judgment constitutes the mandate, and 2) the mandate be sent to the trial court for execution under App.R. 27.

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

To the clerk:

Enter upon the Journal of the Court on 10/18/2024 per Order of the Court.

By: _____
Administrative Judge