

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

STATE OF OHIO,	:	APPEAL NO. C-080385
	:	TRIAL NO. B-0602212
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
JAMES MARSHALL,	:	
	:	
Defendant-Appellant.	:	

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

James Marshall appeals his convictions for trafficking in marijuana and possession of marijuana. We affirm the judgment of the trial court.

Marshall was indicted for two counts of trafficking in marijuana and one count of possession. The case was consolidated with two other cases in which he was indicted for murder with specifications<sup>2</sup> and involuntary manslaughter with specifications.<sup>3</sup> The consolidated cases were tried before a jury, and the jury found Marshall guilty as charged. The trial court sentenced Marshall to a total of 20½ years in prison.

Marshall appealed his convictions. We reversed Marshall’s conviction for involuntary manslaughter and vacated the sentences for trafficking and possession.<sup>4</sup> The case was remanded for resentencing on the trafficking and possession counts. In all other

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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> Hamilton C.P. number B-0506040-A.

<sup>3</sup> Hamilton C.P. number B-0600264-A.

<sup>4</sup> 175 Ohio App.3d 488, 2008-Ohio-955, 887 N.E.2d 1227.

respects the trial court's judgment was affirmed, and our decision was stayed pending the Ohio Supreme Court's review of our decision in *State v. Cabrales*.<sup>5</sup>

Following the Ohio Supreme Court's decision in *State v. Cabrales*,<sup>6</sup> the trial court resentenced Marshall pursuant to our remand. The count of trafficking in violation of R.C. 2925.03(A)(2) was merged with the possession count. The court sentenced Marshall to 18 months for trafficking in marijuana in violation of R.C. 2925.03(A)(1), in addition to a one-year term for the gun specification, and to 12 months for possession of marijuana, in addition to a one-year term for the gun specification. The sentences were consecutive to the sentence for murder in the case numbered B-0506040-A. And the one-year prison terms for the gun specifications were made concurrent with the three-year prison term imposed for the gun specification to the murder offense. The aggregate prison term remained 20½ years. This appeal followed.

Pursuant to *Anders v. California*,<sup>7</sup> Marshall's appointed counsel now advises this court that, after a thorough review of the record, she has found nothing that would arguably support Marshall's appeal, and she has moved this court for permission to withdraw as counsel. Under *Anders*, this court is now charged with the task of independently reviewing the record for any prejudicial error that would warrant the reversal of the trial court's judgment.<sup>8</sup> Counsel, as required by *Anders*, has given Marshall an opportunity to provide grounds for his appeal. Marshall, acting pro se, has filed with this court a document raising additional legal points for consideration on appeal. By previous entry, this court has agreed to consider the document to be an addendum to the brief filed by his appointed counsel.

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<sup>5</sup> 1<sup>st</sup> Dist. No. C-050682, 2007-Ohio-857.

<sup>6</sup> 118 Ohio St.3d 54, 2008-Ohio-1625, 886 N.E.2d 181.

<sup>7</sup> (1967), 386 U.S. 738, 87 S.Ct. 1396.

<sup>8</sup> *Id.*

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We have thoroughly reviewed the record, and we concur in counsel's conclusion that the proceedings below were free of error prejudicial to Marshall. Marshall should not have been sentenced for multiple gun specifications, but because the one-year terms were made concurrent with the three-year term for the gun specification to murder, Marshall was not prejudiced by this error. The sentences imposed by the trial court were within the statutory guidelines. In his addendum, Marshall raises issues regarding his conviction for involuntary manslaughter. Given our reversal of that conviction in his earlier appeal, we conclude that those issues are moot. We, therefore, overrule counsel's motion to withdraw from her representation of Marshall and affirm the judgment of the trial court.

Our determination that the proceedings below were free of prejudicial error also compels our conclusion that there are no reasonable grounds for this appeal. But due to Marshall's indigency, we allow no penalty.

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.

**PAINTER, P.J., SUNDERMANN and CUNNINGHAM, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on January 28, 2009

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