

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

STATE OF OHIO,	:	APPEAL NO. C-090804
	:	TRIAL NO. B-0701605
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
MARIO JOHNSON,	:	
Defendant-Appellant.	:	

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

Defendant-appellant Mario Johnson was indicted on two counts of trafficking in marijuana, one count of marijuana possession, and one count of having a weapon while under a disability. He pleaded guilty to one of the trafficking counts and to the weapon-under-disability charge. He was sentenced to an agreed term of five years in prison. This court reversed his sentence because the trial court had failed to impose a mandatory fine for the trafficking offense. On remand, the trial court resentenced Johnson pursuant to the agreement and imposed the fine. This appeal followed.

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.² Counsel has advised Johnson of this determination and has asked this court to conduct an independent review of the record to determine whether the proceedings below were

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

² See *Anders v. California* (1967), 386 U.S. 738, 87 S.Ct. 1396.

free from prejudicial error.³ Counsel has also asked to withdraw as Johnson's attorney.

After reviewing the record, we agree that the proceedings below were free from prejudicial error.⁴ Accordingly, we affirm the trial court's judgment and overrule counsel's motion to withdraw. We find the appeal to be frivolous, but refrain from taxing costs and expenses against Johnson because he 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. 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 July 14, 2010

per order of the Court _____.

Presiding Judge

³ See *Freels v. Hills* (C.A.6, 1988), 843 F.2d 958; *State v. Mackey* (Dec. 17, 1999), 1st Dist. No. C-990302.

⁴ See *Penson v. Ohio* (1988), 488 U.S. 75, 109 S.Ct. 346.