

{¶ 2} Thomas's court-appointed appellate counsel filed a brief pursuant to *Anders v. California* (1967), 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493, that asserts the absence of any meritorious issues for our review. Thomas's counsel does identify two potential assignments of error. The first concerns the validity of Thomas's no-contest plea, and the second concerns the length of the prison sentence imposed by the trial court. After counsel filed the *Anders* brief, we issued an order granting Thomas sixty days to file a pro se brief assigning any additional errors for our review. The sixty-day period expired and Thomas did not respond.

{¶ 3} *Anders* requires us to conduct a full examination of the record and to appoint new appellate counsel to assist Thomas if we find any issues for review that are not wholly frivolous. *Anders*, at 744. We did not find any such issues. Therefore, we will affirm the trial court's judgment.

{¶ 4} Thomas was first indicted on three counts of gross sexual imposition. But on the morning of the day he was to enter a plea, the prosecutor served him with a Bill of Information and asked the trial court to dismiss the three counts in the indictment, which the court did. The Bill of Information charged Thomas with one count of attempted felonious assault (serious harm), in violation of R.C. 2903.11(A)(1) and R.C. 2923.02. After he waived his right to prosecution by indictment and waived his right to one-day service, Thomas pleaded no contest to the charge. In January 2009, the trial court sentenced Thomas to four years in prison.

{¶ 5} Appointed counsel suggests that the trial court's colloquy with Thomas about his no-contest plea was insufficient for the court to determine that his plea was

knowingly, intelligently, and voluntarily made as Crim.R. 11(C)(2)(a) requires. According to this rule, before accepting a no-contest plea, a trial court must “[d]etermin[e] that the defendant is making the plea voluntarily, with understanding of the nature of the charges and of the maximum penalty involved, and if applicable, that the defendant is not eligible for probation or for the imposition of community control sanctions at the sentencing hearing.” Crim.R. 11(C)(2)(a). Here, the transcript of the plea hearing shows that after the prosecutor read the charge the court asked Thomas if he understood. Thomas answered in the affirmative. The court then said to Thomas, “Mr. Thomas, your felony 3 carries maximum potential penalties of a \$10,000 fine, one, two, three, four, or five years in prison. Do you understand that?” Thomas replied, “Yes, sir.” (Tr. 7.) The court then told Thomas that he was eligible for community control sanctions and explained what such sanctions involved. The court asked if Thomas understood that his no-contest plea is not an admission of guilt but an admission of the facts contained in the indictment (here, the information). Thomas told the court he understood the effect of his no-contest plea. Based on these and other responses, the trial court accepted Thomas’s plea, expressly finding that he had entered it voluntarily, knowingly, and intelligently. Reviewing the transcript of the plea hearing, we find no arguable merit in appointed counsel’s suggestion that the colloquy was insufficient. Nor do we find at the hearing any other non-frivolous issue for review.

{¶ 6} Appointed counsel also suggests that the trial court failed to follow the requirements of R.C. 2929.11(B). This criminal sentencing statute pertinently requires that a felony sentence be “commensurate with and not demeaning to the

seriousness of the offender’s conduct and its impact upon the victim, and consistent with sentences imposed for similar crimes committed by similar offenders.” R.C. 2929.11(B). Counsel argues that the trial court failed to engage in this analysis.

{¶ 7} The sentence that a trial court may impose for third-degree felonies, which Thomas’s attempted felonious assault charge is, ranges from one to five years. R.C. 2929.14(A)(3). Explaining its choice of sentence, the trial court said, “Considering the purposes and principles of sentencing in the Ohio Revised Code, the seriousness and recidivism factors contained therein, further considering the failure on previous supervision, the lack of remorse demonstrated by the defendant, and the pre-sentence investigation, it is the judgment and sentence of this court that the defendant, Jade L. Thomas, be sentenced * * * for a period of four years.” (Tr. 13). Based on the trial court’s statements, we think that the court did consider the purposes of sentencing expressed in R.C. 2929.11(B). Therefore, we find no arguable merit in this suggested assignment of error, nor do we find in the sentencing any other non-frivolous issue for review.

{¶ 8} Finding no issues for review that are not wholly frivolous, the decision of the trial court is Affirmed.

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FAIN and FROELICH, JJ., concur.

Copies mailed to:

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- Jade Thomas
- Hon. Gregory F. Singer

Case Name: State of Ohio v. Jade Thomas