

OHIO COURT OF APPEALS, TWELFTH APPELLATE DISTRICT

In re M.L.

2016-Ohio-754 (Ohio Ct. App. 2016) · No. CA2015-11-021 · Decided February 29, 2016

SUMMARY

The Twelfth District Court of Appeals of Ohio reviewed an Anders brief in an appeal involving M.L. Counsel asserted that the appeal was wholly frivolous and sought permission to withdraw; after independently reviewing the record, the court found no prejudicial error, granted the motion to withdraw, and dismissed the appeal.

CASE DETAILS

COURT	Ohio Court of Appeals, Twelfth Appellate District
WRITING FOR THE COURT	Per Curiam; S. Powell, P.J.; Ringland, J.; Hendrickson, J.
JURISDICTION	Ohio
DECIDED	February 29, 2016
DOCKET	CA2015-11-021
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal from the Preble County Court of Common Pleas, Juvenile Division, in which appointed appellate counsel filed an Anders brief and moved to withdraw.
STANDARD OF REVIEW	Independent review of the record under Anders v. California to determine whether the proceedings contain prejudicial error or infringement of the appellant's constitutional rights.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Ma.L. v. Department of Job & Family Services

TOPICS

- family law procedure
- appellate procedure
- standard of review
- parental rights

PRACTICE AREAS

- family law
- juvenile law
- appellate procedure

QUESTIONS PRESENTED

1. Whether independent review under Anders disclosed any prejudicial error or violation of Ma.L.'s constitutional rights in the juvenile-court proceedings.
2. Whether appointed appellate counsel should be permitted to withdraw after filing an Anders brief and whether the appeal should be dismissed as wholly frivolous.

HOLDINGS

1. The record contained no error prejudicial to Ma.L.'s rights and no infringement of constitutional rights warranting appellate relief.
2. The court granted appointed counsel's motion to withdraw and dismissed the appeal because it was wholly frivolous.

KEY QUOTATIONS

“Having allowed appellant sufficient time to respond, and no response having been received, we have accordingly examined the record and find no error prejudicial to appellant's rights in the proceedings in the trial court.” (¶ 3)

“The motion of counsel for appellant requesting to withdraw as counsel is granted, and this appeal is dismissed for the reason that it is wholly frivolous.” (¶ 3)

FACTUAL BACKGROUND

The appeal arose from juvenile-court proceedings involving M.L. and related parties. The appellate record included the docket and journal entries, transcript of proceedings, and original papers from the juvenile court. The opinion does not describe the underlying factual allegations or juvenile-court disposition in detail because counsel concluded that the appeal was wholly frivolous.

PROCEDURAL HISTORY

Ma.L. appealed from proceedings in the Preble County Court of Common Pleas, Juvenile Division. Appellate counsel filed an Anders brief identifying potential errors, requested independent review of the record, and moved to withdraw. After allowing Ma.L. time to respond and receiving no response, the appellate court independently reviewed the record, found no prejudicial error, granted counsel's motion to withdraw, and dismissed the appeal as wholly frivolous.

DISPOSITION

dismissed

CASES CITED

- Anders v. California, 386 U.S. 738, 87 S. Ct. 1396 (1967)

OPINION

PER CURIAM.

[Cite as In re M.L., 2016-Ohio-754.] IN THE COURT OF APPEALS TWELFTH APPELLATE DISTRICT OF OHIO PREBLE COUNTY IN THE MATTER OF:: M.L., et al.: CASE NO. CA2015-11-021: DECISION 2/29/2016 APPEAL FROM PREBLE COUNTY COURT OF COMMON PLEAS JUVENILE DIVISION Case No. AB21530023 Martin P. Votel, Preble County Prosecuting Attorney, Valerie Sargent-Eckert, Preble County Courthouse, 101 East Main Street, Eaton, Ohio 45320, for appellee, Department of Job & Family Services Jane Marshal, Preble County Courthouse, 101 East Main Street, Eaton, Ohio 45320, Court Appointed Special Advocate Mary A. Ditmer-Nelson, 206 Commerce Street, P.O.

Box 28, Lewisburg, Ohio 45338, for appellant, Ma.L. Per Curiam. {¶ 1} This cause came on to be considered upon a notice of appeal, the transcript of the docket and journal entries, the transcript of proceedings and original papers from the Preble County Court of Common Pleas, Juvenile Division, and upon the brief filed by appellant's counsel. Preble CA2015-11-021 {¶ 2} Counsel for appellant, Ma.L., has filed a brief with this court pursuant to *Anders v. California*, 386 U.S. 738, 87 S.Ct.

1396 (1967), which (1) indicates that a careful review of the record from the proceedings below fails to disclose any errors by the trial court prejudicial to the rights of appellant upon which an assignment of error may be predicated; (2) lists three potential errors "that might arguably support the appeal," *Anders*, at 744, 87 S.Ct. at 1400; (3) requests that this court review the record independently to determine whether the proceedings are free from prejudicial error and without infringement of appellant's constitutional rights; (4) requests permission to withdraw as counsel for appellant on the basis that the appeal is wholly frivolous; and (5) certifies that a copy of both the brief and motion to withdraw have been served upon appellant. {¶ 3} Having allowed appellant sufficient time to respond, and no response having been received, we have accordingly examined the record and find no error prejudicial to appellant's rights in the proceedings in the trial court.

The motion of counsel for appellant requesting to withdraw as counsel is granted, and this appeal is dismissed for the reason that it is wholly frivolous. S. POWELL, P.J., RINGLAND and HENDRICKSON, JJ., concur. -2-