

OHIO COURT OF APPEALS, FIFTH APPELLATE DISTRICT, MUSKINGUM
COUNTY

State v. Denny

2026-Ohio-426 · No. CT2025-0068 · Decided February 9, 2026

SUMMARY

The Ohio Fifth District Court of Appeals affirmed Que’ on Denny’s convictions and aggregate twenty-four-month sentence for two counts of theft and two counts of passing bad checks. The court granted appellate counsel’s Anders motion to withdraw, finding no arguably meritorious issues concerning the guilty pleas under Crim.R. 11 or the sentence, including consecutive-sentence findings.

CASE DETAILS

COURT	Ohio Court of Appeals, Fifth Appellate District, Muskingum County
WRITING FOR THE COURT	William B. Hoffman; William B. Hoffman, P.J.; Craig R. Baldwin, J.; Robert G. Montgomery, J.
JURISDICTION	Ohio Court of Appeals, Fifth Appellate District, Muskingum County
DECIDED	February 9, 2026
DOCKET	CT2025-0068
DISPOSITION	affirmed
PROCEDURAL POSTURE	Denny appealed his convictions and aggregate twenty-four-month consecutive prison sentence after pleading guilty to two counts of theft and two counts of passing bad checks. Appellate counsel filed an Anders motion to withdraw and brief asserting that the appeal was wholly frivolous.
STANDARD OF REVIEW	Felony sentences are reviewed under R.C. 2953.08(G)(2). The appellate court may increase, reduce, modify, or vacate a sentence only when it clearly and convincingly finds that the record does not support the trial court's specified statutory findings or that the sentence is otherwise contrary to law. Review of consecutive sentences is limited to the trial court's R.C. 2929.14(C)(4) findings; the appellate court may not substitute its judgment for that of the trial court or modify a sentence merely because it disagrees with the sentence.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion

TOPICS

sentencing

plea bargaining

criminal procedure

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standard of review

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the trial court complied with Crim.R. 11 when accepting Denny's guilty pleas.
2. Whether Denny's felony sentences were contrary to law under R.C. 2953.08(G)(2), including whether the trial court properly considered the purposes and principles of felony sentencing and the seriousness and recidivism factors.
3. Whether the record clearly and convincingly failed to support the trial court's findings imposing consecutive sentences under R.C. 2929.14(C)(4).
4. Whether appellate counsel should be permitted to withdraw under Anders because the appeal presented no arguably meritorious issue.

HOLDINGS

1. The trial court complied with Crim.R. 11 in accepting Denny's guilty pleas.
2. Denny's sentence was not contrary to law.
3. The appellate court did not clearly and convincingly find that the evidence failed to support the trial court's consecutive-sentence findings.
4. The appeal was wholly frivolous under Anders; counsel was permitted to withdraw, and the judgment was affirmed.

KEY QUOTATIONS

"Nowhere does the appellate-review statute direct an appellate court to consider the defendant's aggregate sentence. Rather, the appellate court must limit its review to the trial court's R.C. 2929.14(C)(4) consecutive-sentencing findings." (¶ 16)

"Nothing in R.C. 2953.08(G)(2) permits this Court to independently weigh the evidence in the record and substitute our own judgment for that of the trial court to determine a sentence which best reflects compliance with R.C. 2929.11 and R.C. 2929.12." (¶ 11)

FACTUAL BACKGROUND

In May 2022, Denny opened a Chase bank account with a \$20 deposit and then wrote checks totaling \$5,689 for flooring materials and \$1,875 for a Jeep dealership purchase. The account lacked sufficient funds to cover either

check. Denny had prior theft-related and other convictions, had previously served multiple prison terms, had experienced community-control revocations, and tested positive for drugs while on bond in the present case.

PROCEDURAL HISTORY

A Muskingum County grand jury indicted Denny on two theft counts, two passing-bad-checks counts, and one receiving-stolen-property count. Pursuant to a plea agreement, Denny pleaded guilty to the four theft and passing-bad-checks counts, and the State dismissed the receiving-stolen-property count. The trial court merged the theft and passing-bad-checks counts in pairs, imposed two consecutive twelve-month prison terms on the theft convictions, and entered judgment on July 16, 2025. The Fifth District granted counsel's motion to withdraw and affirmed the judgment.

DISPOSITION

affirmed

CASES CITED

- *Anders v. California*, 386 U.S. 738 (1967)
- *Anders v. California*, 388 U.S. 924 (1967)
- *State v. Roberts*, 2020-Ohio-6722, ¶ 13 (5th Dist.)
- *State v. Marcum*, 2016-Ohio-1002
- *State v. Bonnell*, 2014-Ohio-3177
- *State v. Hodges*, 2013-Ohio-5025, ¶ 7 (8th Dist.)
- *State v. Jones*, *State v. Jones*, 2020-Ohio-6729, ¶ 42
- *State v. Pettorini*, 2021-Ohio-1512, ¶¶ 14-16 (5th Dist.)
- *State v. Glover*, 2024-Ohio-5195, ¶¶ 43-46
- *State v. Gwynne*, 2023-Ohio-3851, 231 N.E.3d 1109, ¶¶ 14-15
- *Cross v. Ledford*, 161 Ohio St. 469, 120 N.E.2d 118 (1954)