

OHIO COURT OF APPEALS, NINTH JUDICIAL DISTRICT

State v. Gainer

2026-Ohio-1537 · No. 31435 · Decided April 29, 2026

SUMMARY

The Ninth District Court of Appeals of Ohio affirmed Dezmond Gainer’s convictions and sentence following his guilty pleas to cocaine trafficking and possession of a fentanyl-related compound. Applying *Anders v. California*, the court found no nonfrivolous issues for direct appeal, granted appellate counsel’s motion to withdraw, and noted that Gainer’s ineffective-assistance claim was more suitable for post-conviction relief.

CASE DETAILS

COURT	Ohio Court of Appeals, Ninth Judicial District
WRITING FOR THE COURT	Donna J. Carr; Jennifer Hensal; J. Flagg Lanzinger
JURISDICTION	Ohio Court of Appeals, Ninth Judicial District
DECIDED	April 29, 2026
DOCKET	31435
DISPOSITION	affirmed
PROCEDURAL POSTURE	Gainer appealed his criminal convictions and sentence after entering a plea agreement. Appellate counsel filed an <i>Anders</i> brief and moved to withdraw, asserting that no nonfrivolous issues existed for direct appeal.
STANDARD OF REVIEW	The court conducted a thorough and independent examination of the record under <i>Anders</i> to determine whether any nonfrivolous issue supported a direct appeal.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Dezmond Gainer v. State of Ohio

TOPICS

- appellate procedure
- post-conviction relief
- ineffective assistance
- criminal procedure
- suppression of evidence

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether appellate counsel could withdraw under Anders after determining, based on an independent review of the record, that no nonfrivolous issue existed for direct appeal.
2. Whether the record supported a direct-appeal claim that trial counsel was ineffective in withdrawing the motion to suppress.

HOLDINGS

1. After independently examining the record, the court determined that the appeal presented no nonfrivolous issues and granted appellate counsel's motion to withdraw.
2. The record did not support the claim on direct appeal; the issue was more suitable for post-conviction relief.

KEY QUOTATIONS

“Having reviewed the relevant portions of the record and determined that no appealable issues exist, this Court concludes that Gainer’s appeal is meritless and wholly frivolous under Anders.” (¶ 9)

FACTUAL BACKGROUND

Gainer was indicted on multiple cocaine- and fentanyl-related trafficking and possession charges, with attendant specifications. He initially pleaded not guilty and filed a motion to suppress, but after continuances he withdrew that motion and entered a plea agreement. He pleaded guilty to cocaine trafficking with forfeiture specifications and fentanyl-related-compound possession; the other charges and specifications were dismissed. The trial court sentenced him to five to seven and one-half years in prison and ordered forfeiture of drug money and six firearms.

PROCEDURAL HISTORY

A Summit County grand jury indicted Gainer on drug-trafficking, drug-possession, and related specification charges. After filing and later withdrawing a motion to suppress, Gainer pleaded guilty pursuant to an agreement; the remaining charges were dismissed, and the trial court imposed a prison term of five to seven and one-half years and entered forfeiture orders. Several months later, the appellate court granted Gainer's motion for a delayed appeal. The Ninth District independently reviewed the record, granted counsel's motion to withdraw, and affirmed.

DISPOSITION

affirmed

CASES CITED

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

- State v. Randles, 2008-Ohio-662, ¶ 6 (9th Dist.)
- State v. Ross, 2024-Ohio-4531, ¶ 8 (9th Dist.)

OPINION

PER CURIAM.

[Cite as State v. Gainer, 2026-Ohio-1537.] STATE OF OHIO) IN THE COURT OF APPEALS
)ss: NINTH JUDICIAL DISTRICT COUNTY OF SUMMIT) STATE OF OHIO C.A. No. 31435
Appellee v. APPEAL FROM JUDGMENT ENTERED IN THE DEZMOND GAINER COURT
OF COMMON PLEAS COUNTY OF SUMMIT, OHIO Appellant CASE No. CR 2023-06-
2153(B) DECISION AND JOURNAL ENTRY Dated: April 29, 2026 CARR, Presiding Judge.
{¶1} Appellant, Dezmond Gainer, appeals the judgment of the Summit County Court of Common
Pleas.

This Court affirms. I. {¶2} On July 6, 2023, the Summit County Grand Jury returned an indictment charging Gainer with one count of trafficking in cocaine with a litany of attendant specifications, one count of possession of cocaine with a major drug offender specification, one count of trafficking in a fentanyl-related compound with numerous specifications, and one count of possession of a fentanyl-related compound.

Gainer pleaded not guilty to the charges at arraignment. {¶3} Gainer subsequently filed a motion to suppress, and the State filed a brief in opposition. After several continuances, Gainer withdrew his motion to suppress and entered into a plea agreement with the State. Gainer pleaded guilty to trafficking in cocaine with one forfeiture specification pertaining to money in a drug case, and six forfeiture specifications pertaining to 2 firearms in a drug case.

Gainer also pleaded guilty to possession of a fentanyl-related compound. The remaining charges and specifications were dismissed pursuant to the plea agreement. The trial court sentenced Gainer to a prison term of 5 to 7 and a half years.

The trial court also issued forfeiture orders pertaining to the drug money and the six firearms. {¶4} Several months after the trial court issued its sentencing entry, Gainer filed a motion for a delayed appeal, which this Court granted.

II. {¶5} Appellate counsel for Gainer has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), wherein she states that she has thoroughly reviewed the record in this matter and concluded that there are no viable issues to raise on direct appeal. Appellate counsel has moved to withdraw. Gainer was served with a copy of the *Anders* brief and he subsequently filed a response. {¶6} In the *Anders* brief, appellate counsel emphasized that she performed a scrupulous review of the record, which included a review of the transcripts from the plea hearing and the sentencing hearing, and determined that there were no viable issues to be raised in the instant appeal.

After conferring with Gainer, appellate counsel has pointed to one potential issue regarding the effectiveness of trial counsel in moving to withdraw the motion to suppress. Notably, however, appellate counsel notes that there is no basis in the record to support that claim on direct appeal and that the issue is more suitable for post-conviction relief. {¶7} Gainer filed a response to the Anders brief.

While Gainer suggested that trial counsel was ineffective in withdrawing the motion to suppress, Gainer expressed his preference to address that issue by filing a petition for post-conviction relief. 3 {¶8} A review of the record confirms appellate counsel's observation that there was no objection to the withdrawal of the motion to suppress, nor was there any evidence on the face of the record that would call the withdrawal of that motion into question.

Accordingly, after this Court's thorough and independent examination of the record, we agree that there are no non-frivolous issues that can be raised on direct appeal. See *State v. Randles*, 2008-Ohio-662, ¶ 6 (9th Dist.); *State v. Ross*, 2024-Ohio-4531, ¶ 8 (9th Dist.).

Accordingly, appellate counsel's motion to withdraw is granted. III. {¶9} Having reviewed the relevant portions of the record and determined that no appealable issues exist, this Court concludes that Gainer's appeal is meritless and wholly frivolous under Anders. Appellate counsel's request to withdraw is granted.

The judgment of the Summit County Court of Common Pleas is affirmed. Judgment affirmed. There were reasonable grounds for this appeal. We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Summit, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R.

27. Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(C).

The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30. 4 Costs taxed to Appellant. DONNA J. CARR FOR THE COURT HENSAL, J. FLAGG LANZINGER, J. CONCUR. APPEARANCES: ALANA VAN GUNDY, Attorney at Law, for Appellant. ELLIOT KOLKOVICH, Prosecuting Attorney, and JAMIE L. MORRIS, Assistant Prosecuting Attorney, for Appellee.