

OHIO COURT OF APPEALS, NINTH JUDICIAL DISTRICT

State v. Gainer

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

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OPINION

State v. Gainer

2026 Ohio 1537

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.

