

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA, FIFTH
DISTRICT

Safir S. Kazi v. State of Florida

Kazi · No. 5D22-2521 · Decided April 28, 2023

SUMMARY

In this Anders appeal, the Fifth District Court of Appeal of Florida affirmed the judgment and sentence imposed on Safir S. Kazi. The court remanded with directions for the trial court to strike Kazi’s motion to withdraw plea and the related order because both were filed after the notice of appeal.

CASE DETAILS

COURT	District Court of Appeal of the State of Florida, Fifth District
WRITING FOR THE COURT	Per Curiam; Edwards, J.; Jay, J.; Boatwright, J.
JURISDICTION	Florida
DECIDED	April 28, 2023
DOCKET	5D22-2521
DISPOSITION	remanded
PROCEDURAL POSTURE	Anders appeal from a judgment and sentence imposed by the Circuit Court for Seminole County.
PRECEDENTIAL VALUE	published
PARTIES	Safir S. Kazi v. State of Florida

TOPICS

- criminal procedure
- appellate procedure
- final judgment rule

PRACTICE AREAS

- criminal procedure
- appellate procedure

QUESTIONS PRESENTED

- Whether the judgment and sentence should be affirmed in the Anders appeal.
- Whether the trial court's post-notice-of-appeal motion to withdraw plea and order on that motion should be stricken.

HOLDINGS

1. The judgment and sentence imposed by the trial court are affirmed.
2. The trial court must strike the appellant's motion to withdraw plea and the order on that motion because both were filed after the notice of appeal.

KEY QUOTATIONS

“AFFIRMED; REMANDED with directions to strike Appellant’s motion to withdraw plea and the order entered on the motion that were both filed after his notice of appeal.”

FACTUAL BACKGROUND

The opinion concerns a criminal judgment and sentence appealed in an Anders proceeding. After Kazi filed his notice of appeal, he filed a motion to withdraw his plea, and the trial court entered an order on that motion. The appellate court found no reversible issue requiring disturbance of the judgment and sentence but directed that the post-notice filings be stricken.

PROCEDURAL HISTORY

The trial court entered judgment and sentence against Kazi. Kazi appealed, and appellate counsel filed an Anders brief. The Fifth District affirmed the judgment and sentence but remanded for the trial court to strike Kazi's motion to withdraw plea and the order on that motion because both were filed after the notice of appeal.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The lower court must strike Appellant's motion to withdraw plea and the order entered on that motion, both of which were filed after Appellant filed his notice of appeal. The judgment and sentence are affirmed.

CASES CITED

- Payet v. State, 47 Fla. L. Weekly D1705 (Fla. 5th DCA Aug. 12, 2022)
- Anders v. California, 386 U.S. 738 (1967)

OPINION

PER CURIAM.

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA FIFTH DISTRICT
NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED SAFIR S. KAZI, Appellant, v. Case No. 5D22-2521 LT
Case No. 2022-CF-1146-A STATE OF FLORIDA, Appellee.

/ Opinion filed April 28, 2023 Appeal from the Circuit Court for Seminole County, Melissa Souto, Judge.

Matthew J. Metz, Public Defender, and Joseph Chloupek, Assistant Public Defender, Daytona Beach, for Appellant. Ashley Moody, Attorney General, Tallahassee, and Richard A. Pallas, Jr, Assistant Attorney General, Daytona Beach, for Appellee. PER CURIAM.

In this Anders¹ appeal, we affirm the judgment and sentence imposed by the trial court. However, as raised in the Appellant's brief, we remand for the lower court to strike Appellant's motion to withdraw plea and the order on the motion, both of which were filed after Appellant filed his notice of appeal. See *Payet v. State*, 47 Fla. L. Weekly D1705 (Fla. 5th DCA Aug.

12, 2022) (affirming judgments and sentences in Anders appeal but remanding with instructions for trial court to strike the defendant's motion to withdraw plea and the order on the motion that were both filed subsequent to the notice of appeal). AFFIRMED; REMANDED with directions to strike Appellant's motion to withdraw plea and the order entered on the motion that were both filed after his notice of appeal.

EDWARDS, JAY and BOATWRIGHT, JJ., concur. 1 *Anders v. California*, 386 U.S. 738 (1967). 2