

OHIO COURT OF APPEALS, FIFTH APPELLATE DISTRICT

State v. Phelps

2026-Ohio-1423 · No. 2025 CA 00036 · Decided April 20, 2026

SUMMARY

The Ohio Court of Appeals, Fifth Appellate District, affirmed the Fairfield County Court of Common Pleas' judgment in Robert Phelps's appeal concerning a motion for judicial release and a motion to recuse the trial judge. The court held that a judicial-release ruling would not be a final, appealable order, that the trial court had overruled the recusal motion sub silentio, and that the appellate court lacked authority to review the recusal decision. Applying *Anders v. California*, the court granted appellate counsel's motion to withdraw after finding no arguably meritorious issues.

CASE DETAILS

COURT	Ohio Court of Appeals, Fifth Appellate District
WRITING FOR THE COURT	William B. Hoffman, P.J.; Robert G. Montgomery, J.; Kevin W. Popham, J.
JURISDICTION	Ohio Court of Appeals, Fifth Appellate District
DECIDED	April 20, 2026
DOCKET	2025 CA 00036
DISPOSITION	affirmed
PROCEDURAL POSTURE	Criminal defendant appealed from the Fairfield County Court of Common Pleas's purported judgment overruling a motion for judicial release and allegedly failing to rule on a motion for recusal. Appointed appellate counsel filed an <i>Anders</i> motion to withdraw and a brief asserting that the appeal was wholly frivolous.
STANDARD OF REVIEW	Under <i>Anders</i> , the appellate court independently reviewed the record to determine whether any arguably meritorious issue existed. The court reviewed the asserted recusal issue for appellate jurisdiction and legal merit.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Robert Phelps v. State of Ohio

TOPICS

appellate procedure

appellate jurisdiction

criminal procedure

post-conviction relief

PRACTICE AREAS

criminal procedure

appellate procedure

post-conviction relief

QUESTIONS PRESENTED

1. Whether the trial court's failure to expressly rule on Phelps's motion to recuse, and its alleged mischaracterization of that motion as one for judicial release, presented a meritorious appellate issue.
2. Whether the Ohio Court of Appeals had authority to review the trial court's decision on a request for judicial recusal under Ohio Revised Code section 2701.03.
3. Whether appointed appellate counsel should be permitted to withdraw under *Anders v. California* because the appeal was wholly frivolous.

HOLDINGS

1. The trial court overruled Phelps's motion to recuse sub silentio because it continued to rule on Phelps's other pending motions after the recusal motion was filed.
2. The Ohio Court of Appeals lacks authority under Ohio Revised Code section 2701.03 to review a trial court's decision on a request to recuse.
3. Because counsel complied with *Anders* and the appellate court's independent review disclosed no arguably meritorious claim, counsel's motion to withdraw was granted and the appeal was affirmed.

KEY QUOTATIONS

“Nevertheless, pursuant to R.C. 2701.03, this Court is without authority to review a trial court’s decision on a request to recuse.” (¶ 7)

“After independently reviewing the record, we agree with counsel's conclusion no arguably meritorious claims exist upon which to base an appeal.” (¶ 8)

FACTUAL BACKGROUND

Phelps pleaded guilty to twelve counts of aggravated trafficking in drugs and one count of engaging in a pattern of corrupt activity after the State dismissed seventy-one other indictment counts. The parties jointly recommended, and the trial court imposed, a fifteen-year prison sentence. In 2025, Phelps moved to recuse the trial judge, but the purported entry addressing the motion was labeled as an order denying judicial release and was absent from the trial-court docket and transmitted appellate record.

PROCEDURAL HISTORY

Phelps pleaded guilty to twelve counts of aggravated trafficking in drugs and one count of engaging in a pattern of corrupt activity and received the jointly recommended fifteen-year sentence; the court previously affirmed his conviction and sentence. In 2025, he moved to recuse the trial judge. A purported September 8, 2025 entry characterized the matter as a motion for judicial release, but that entry was not included on the trial-court docket

or in the appellate record. The appellate court concluded that the trial court had overruled the recusal motion sub silentio, that the appellate court lacked authority to review a recusal decision under Ohio Revised Code section 2701.03, and that no arguably meritorious appellate issue existed.

DISPOSITION

affirmed

CASES CITED

- State v. Phelps, 2022-Ohio-3025 (5th Dist.)
- Anders v. California, 386 U.S. 738 (1967)
- 388 U.S. 924
- State v. Buchanan, 2007-Ohio-1578, ¶ 13 (5th Dist.)
- Colley v. Crabtree, 2024-Ohio-437, ¶ 47 (4th Dist.)

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