

COURT OF APPEALS OF OHIO, ELEVENTH APPELLATE DISTRICT,
ASHTABULA COUNTY

State v. Graley

2023-Ohio-1535 (Ohio Ct. App. 2023) · No. 2022-A-0088 · Decided May 8, 2023

SUMMARY

The Eleventh District Court of Appeals of Ohio affirmed Thomas Joe Graley’s conviction and sentence for aggravated murder following his guilty plea and agreed sentence of 25 years to life. Applying *Anders v. California*, the court independently reviewed the record and found no nonfrivolous issues concerning sentencing, competency, the plea, or ineffective assistance of counsel.

CASE DETAILS

COURT	Court of Appeals of Ohio, Eleventh Appellate District, Ashtabula County
WRITING FOR THE COURT	Matt Lynch, J.; John J. Eklund, P.J.; Eugene A. Lucci, J.
JURISDICTION	Ohio
DECIDED	May 8, 2023
DOCKET	2022-A-0088
DISPOSITION	affirmed
PROCEDURAL POSTURE	Anders appeal from a guilty-plea conviction and jointly recommended sentence for aggravated murder.
STANDARD OF REVIEW	Under <i>Anders v. California</i> , the appellate court must conduct a full examination of the proceedings to determine whether the appeal is wholly frivolous. Competency findings are reviewed for abuse of discretion and will not be disturbed when supported by some reliable, credible evidence.
PRECEDENTIAL VALUE	published appellate opinion
PARTIES	Thomas Joe Graley v. State of Ohio

TOPICS

- sentencing appellate procedure criminal procedure plea bargaining standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Anders appeal presented any nonfrivolous issue requiring appointment of new appellate counsel.
2. Whether Graley's jointly agreed sentence of 25 years to life for aggravated murder was subject to appellate review.
3. Whether Graley was competent to enter his guilty plea and whether the plea was entered knowingly and voluntarily in compliance with Crim.R. 11.
4. Whether the record revealed any other meritorious sentencing, competency, plea, or ineffective-assistance issue.

HOLDINGS

1. The appeal was wholly frivolous because the court's independent review disclosed no nonfrivolous issue warranting appointment of new counsel.
2. Graley's jointly agreed sentence of 25 years to life was authorized by law and was not subject to review under R.C. 2953.08(D)(1).
3. The record supported the conclusion that Graley was competent to enter his guilty plea.
4. Graley's guilty plea was entered knowingly and voluntarily, and the trial court complied with Crim.R. 11(C)(2).
5. The record disclosed no ineffective-assistance claim affecting the knowing and voluntary character of Graley's guilty plea.

KEY QUOTATIONS

“The appellate court must conduct “a full examination of all the proceedings, to decide whether the case is wholly frivolous.”” (¶ 9)

“A sentence imposed upon a defendant is not subject to review under this section if the sentence is authorized by law, has been recommended jointly by the defendant and the prosecution in the case, and is imposed by a sentencing judge.” (¶ 11)

“A defendant must have “sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding” and “a rational as well as factual understanding of the proceedings against him.”” (¶ 17)

“The best way to ensure that pleas are entered knowingly and voluntarily is to simply follow the requirements of Crim.R.11 when deciding whether to accept a plea agreement” (¶ 19)

FACTUAL BACKGROUND

Graley was charged with aggravated murder and murder after killing his girlfriend following an argument; the victim died from multiple injuries, including blunt-force trauma. He was initially found incompetent to stand

trial but was later restored to competency after treatment. He then pleaded guilty to aggravated murder in exchange for dismissal of the murder charge and a jointly agreed sentence of 25 years to life.

PROCEDURAL HISTORY

Graley was indicted for aggravated murder and murder, was initially found incompetent to stand trial, and was later found competent following treatment and a second forensic examination. He pleaded guilty to aggravated murder under a plea agreement, the murder charge was dismissed, and the trial court imposed the jointly agreed sentence of 25 years to life. Appointed appellate counsel filed an Anders brief and moved to withdraw; after allowing Graley an opportunity to submit arguments, the court independently reviewed the record, found no nonfrivolous issue, granted counsel's motion to withdraw, and affirmed.

DISPOSITION

affirmed

CASES CITED

- Anders v. California, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967)
- State v. Spears, 11th Dist. Ashtabula No. 2013-A-0027, 2014-Ohio-2695, ¶ 5
- Penson v. Ohio, 488 U.S. 75, 80, 109 S.Ct. 346, 102 L.Ed.2d 300 (1989)
- State v. Merrick, 2d Dist. Greene No. 2019-CA-29, 2020-Ohio-3744, ¶ 63
- State v. Fortune, 2015-Ohio-4019, 42 N.E.3d 1224, ¶ 14 (11th Dist.)
- State v. McFarland, 11th Dist. Lake No. 2013-L-061, 2014-Ohio-2883, ¶ 14
- State v. Bortree, ___ Ohio St.3d ___, 2022-Ohio-3890, ___ N.E.3d ___, ¶ 11, fn. 2
- State v. Thomas, 11th Dist. Lake No. 2019-L-085, 2021-Ohio-3175, ¶¶ 7-8
- State v. Patrick, 164 Ohio St. 3d 309, 2020-Ohio-6803, 172 N.E.3d 952, ¶ 22
- State v. Tillis, 2023-Ohio-673, ___ N.E.3d ___, ¶ 34 (11th Dist.)
- State v. Spurrier, 11th Dist. Lake No. 2020-L-069, 2021-Ohio-1061, ¶ 42
- State v. Montgomery, 148 Ohio St.3d 347, 2016-Ohio-5487, 71 N.E.3d 180, ¶ 56
- Godinez v. Moran, 509 U.S. 389, 396, 113 S.Ct. 2680, 125 L.Ed.2d 321 (1993)
- Dusky v. United States, 362 U.S. 402, 80 S.Ct. 788, 4 L.Ed.2d 824 (1960)
- State v. Zachery, 5th Dist. Stark No. 2004CA00091, 2004-Ohio-6282, ¶ 21
- State v. Clark, 119 Ohio St.3d 239, 2008-Ohio-3748, 893 N.E.2d 462, ¶ 29
- State v. Green, 11th Dist. Trumbull No. 2017-T-0073, 2018-Ohio-3536, ¶ 19

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