

[Cite as *State v. Huckleby*, 2011-Ohio-1131.]

IN THE COURT OF APPEALS FOR GREENE COUNTY, OHIO

STATE OF OHIO	:	
	:	
Plaintiff-Appellee	:	C.A. CASE NO. 2010 CA 54
v.	:	T.C. NO. 09CR771
MICHAEL HUCKLEBY	:	(Criminal appeal from Common Pleas Court)
Defendant-Appellant	:	

**OPINION**

Rendered on the 11<sup>th</sup> day of March, 2011.

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MICHAEL HUCKLEBY, #A635-510, Southeastern Correctional Institute, 5900 B.I.S. Road, Lancaster, Ohio 43130  
Defendant-Appellant

DONOVAN, J.

{¶ 1} This is an appeal from a judgment of the Greene County Court of Common Pleas that found Appellant, Michael Huckleby, guilty of burglary on June

2, 2010. Appellant's counsel filed an appeal pursuant to *Anders v. California* (1967), 386 U.S. 738. After a thorough review of the entire record, we find no grounds for an arguably meritorious appeal. Accordingly, we affirm the trial court's decision.

## I

{¶ 2} On or about July 5, 2009, Huckleby burglarized an apartment located on Old Yellow Springs Road in Fairborn, Ohio. With information supplied by the victim, as well as DNA evidence, Fairborn Police arrested Huckleby for burglary. Following the arrest, Huckleby was indicted on one count of burglary, in violation of R.C. 2911.12, a felony of the third degree. On June 2, 2010, Huckleby changed his plea to guilty. Huckleby was sentenced on July 20, 2010 to a prison term of one year.

## II

{¶ 3} Counsel for the Appellant submitted a brief under the authority of *Anders v. California*. Appellant's counsel states that, after reviewing the record of the trial court proceedings he could not find any arguable issues for appeal.

{¶ 4} *Anders v. California* sets forth the procedure appointed appellate counsel must follow when he/she wishes to withdraw for lack of any meritorious appealable issues. In *Anders*, the United States Supreme Court held that if counsel does a conscientious examination of the case and determines an appeal to be frivolous, counsel should advise the court and then should request permission to withdraw. *Anders*, 386 U.S. 744. Counsel must also give his/her client a copy of the brief along with the request to withdraw. *Id.* The appellant then must be given

sufficient time to raise any matters he so chooses. *Id.* After those requirements are satisfied, the appellate court must conduct a thorough examination of the proceedings to determine if the appeal is actually frivolous. *Id.* If the appellate court does determine the appeal is frivolous, it may then grant counsel's request to withdraw and then dismiss the appeal without violating any constitutional requirements, or the court can proceed to a decision on the merits if state law requires it. *Id.*

{¶ 5} Appellant's appointed counsel satisfied the requirements of *Anders v. California*. We notified Appellant of his appellate counsel's representation and offered him ample time to file a pro se brief. None has been filed. This court shall examine the entire record to determine if this appeal is frivolous or has merit.

### III

{¶ 6} Appellant's counsel does set forth one potential assignment of error, which is as follows:

{¶ 7} "APPELLANT'S CONVICTION AND SENTENCING IS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE."

{¶ 8} Huckleby argues that either the conviction or verdict was against the manifest weight of the evidence. However, since Huckleby pled guilty, he waived his opportunity to attack the conviction or verdict as against the manifest weight of the evidence on his appeal. *State v. Bailey*, Montgomery App. No. 23164, 2009-Ohio-4107, ¶ 9 ; citing *State v. Jones*, Greene App. No. 08 CA 0008, 2009-Ohio-694, ¶ 13.

{¶ 9} Huckleby's assignment of error lacks merit.

IV

{¶ 10} Upon an independent review of the record, we have found no grounds for a meritorious appeal. Appellant's appeal is found to be frivolous. Accordingly, the judgment of the trial court is affirmed.

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GRADY, P.J. and FAIN, J., concur.

Copies mailed to:

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Byron K. Shaw  
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Hon. J. Timothy Campbell