COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

DONALD SHADRACK BARRETT, Appellant, v. THE STATE of TEXAS, Appellee.	§	No. 08-14-00039-CR
	§	Appeal from the
	§	County Criminal Court No. 7
	§	of Dallas County, Texas
	§	(TC# M1346036H)

MEMORANDUM OPINION

Donald Shadrack Barrett appeals his convictions for driving while intoxicated and possession of marijuana. We affirm.[1]

FACTUAL AND PROCEDURAL BACKGROUND

Appellant was charged by information with one count each of Driving While Intoxicated and Possession of Marijuana, and pleaded not guilty to both counts. At his jury trial, the State presented evidence from the arresting officer, who testified that shortly after midnight on the morning of September 3, 2013, she observed Appellant's vehicle sitting in the middle of a roadway blocking traffic. Believing that Appellant's vehicle may have stalled, the officer stopped to offer

[1] This appeal was transferred from the Dallas Court of Appeals pursuant to a docket equalization order issued by the Texas Supreme Court. We apply the precedent of that court to the extent required by TEX.R.APP.P. 41.3.

assistance. However, upon approaching the vehicle, she soon suspected that Appellant was intoxicated, as she detected a strong smell of alcohol emanating from his breath, and observed that Appellant had bloodshot eyes, and that his speech was slurred. The officer conducted a series of three standardized field sobriety tests, all of which Appellant failed, and she thereafter placed Appellant under arrest for suspicion of driving while intoxicated. In preparation for having Appellant's car towed off the roadway, the officer conducted an inventory search of Appellant's car, which revealed the presence of a baggie of marijuana in the pocket of the front passenger door. The officer testified at trial that based on her training and experience, together with the fact that she could detect the distinctive smell of marijuana while searching Appellant's car, she was able to identify the contents of the baggie as being marijuana.

The jury found Appellant guilty of both DWI and possession of marijuana. The trial court sentenced Barrett to 90 days' confinement in the county jail for the DWI and 45 days for the possession of marijuana.

ANDERS BRIEF

Appellant's court-appointed appellate counsel has filed an *Anders* brief, together with a motion to withdraw as counsel on appeal. *See Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967); *High v. State*, 573 S.W.2d 807, 813 (Tex.Crim.App. [panel op.] 1978)(adopting the *Anders* procedure); *see also Stafford v. State*, 813 S.W.2d 503, 509–11 (Tex.Crim.App. 1991). In *Anders*, the United States Supreme Court recognized that counsel, though appointed to represent the appellant in an appeal from a criminal conviction, has no duty to pursue a frivolous matter on appeal. *Anders*, 386 U.S. at 744, 87 S.Ct. at 1400. Counsel is thus

permitted to withdraw after informing the court of his conclusion that any appeal would be frivolous, and the efforts he or she made in arriving at that conclusion. *Id.*

In her brief, and in her motion to withdraw, Appellant's court-appointed counsel has certified that she thoroughly searched the record and concluded that any issue raised on appeal would be wholly frivolous and without merit. Counsel's brief presents a thorough and professional evaluation of the record demonstrating why there are no arguable grounds to be advanced on appeal. Therefore it meets the *Anders* requirements. *See id.* Counsel has informed the Court that she properly notified Appellant in writing of the filing of her *Anders* brief and her motion to withdraw, provided him with a copy of both documents, and advised Appellant of his right to examine the appellate record and file a *pro se* brief. *See In re Schulman*, 252 S.W.3d 403, 408 (Tex.Crim.App. 2008). Appellant has not filed a *pro se* brief or requested access to the appellate record.

INDEPENDENT REVIEW

When counsel files a proper *Anders* brief, the court of appeals must conduct its own review of the record to ascertain if there are any arguable grounds for the appeal. *See Schulman*, 252 S.W.3d at 409; *Stafford*, 813 S.W.2d at 511. We have thoroughly reviewed both the record and counsel's brief and agree with counsel's professional assessment that the appeal is wholly frivolous and without merit, and we find nothing in the record that might arguably support the appeal.

CONCLUSION

We affirm the trial court's judgment.

STEVEN L. HUGHES, Justice

January 8, 2016

Before McClure, C.J., Rodriguez, and Hughes, JJ.

(Do Not Publish)