



In The
Eleventh Court of Appeals

No. 11-11-00285-CR

JOHN RIVERA, Appellant

V.

STATE OF TEXAS, Appellee

On Appeal from the County Court at Law No. 4

Travis County, Texas

Trial Court Cause No. D-1-DC-11-300387

MEMORANDUM OPINION

The jury convicted John Rivera of assault-family violence, a third-degree felony.¹ The trial court assessed his punishment at confinement in the Institutional Division of the Texas Department of Criminal Justice for a term of ten years. We dismiss the appeal.

Appellant's court-appointed counsel has filed a motion to withdraw. The motion is supported by a brief in which counsel professionally and conscientiously examines the record and applicable law and states that she has concluded that the appeal is frivolous. Counsel has

¹TEX. PENAL CODE ANN. § 22.01(b)(2) (West 2011) elevates a misdemeanor assault-family violence offense to a third-degree felony if the defendant has a prior conviction for assault-family violence.

provided appellant with a copy of the brief and advised appellant of his right to review the record and file a response to counsel's brief. A response has not been filed.² Court-appointed counsel has complied with the requirements of *Anders v. California*, 386 U.S. 738 (1967); *In re Schulman*, 252 S.W.3d 403 (Tex. Crim. App. 2008); *Stafford v. State*, 813 S.W.2d 503 (Tex. Crim. App. 1991); *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. 1978); *Currie v. State*, 516 S.W.2d 684 (Tex. Crim. App. 1974); *Gainous v. State*, 436 S.W.2d 137 (Tex. Crim. App. 1969); and *Eaden v. State*, 161 S.W.3d 173 (Tex. App.—Eastland 2005, no pet.). Following the procedures outlined in *Anders* and *Schulman*, we have independently reviewed the record, and we agree that the appeal is without merit and should be dismissed. *Schulman*, 252 S.W.3d at 409.

We note that counsel has the responsibility to advise appellant that he may file a petition for discretionary review with the clerk of the Texas Court of Criminal Appeals seeking review by that court. TEX. R. APP. P. 48.4 (“In criminal cases, the attorney representing the defendant on appeal shall, within five days after the opinion is handed down, send his client a copy of the opinion and judgment, along with notification of the defendant’s right to file a *pro se* petition for discretionary review under Rule 68.”). Likewise, this court advises appellant that he may file a petition for discretionary review pursuant to TEX. R. APP. P. 68.

The motion to withdraw is granted, and the appeal is dismissed.

PER CURIAM

March 22, 2012

Do not publish. See TEX. R. APP. P. 47.2(b).

Panel consists of: Wright, C.J.,
McCall, J., and Kalenak, J.

²By letter, this court granted appellant thirty days in which to exercise his right to file a response to counsel's brief.