Opinion filed June 30, 2017

In The

Eleventh Court of Appeals

Nos. 11-16-00251-CR & 11-16-00252-CR

ROSETTA IVERY, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 35th District Court
Brown County, Texas
Trial Court Cause Nos. CR23235 & CR23520

M E M O R A N D U M O P I N I O N

Based upon an open plea of guilty, the trial court convicted Rosetta Ivery of theft in cause no. CR23235 and of three counts of credit or debit card abuse and one count of burglary of a building in cause no. CR23520. All of the offenses were state jail felonies. The trial court accepted Appellant's pleas, held a hearing as to punishment, convicted Appellant of the offenses, and assessed Appellant's punishment at confinement for two years in a state jail facility for each offense—to run concurrently. We dismiss the appeals.

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 records and applicable law and concludes that the appeals are frivolous and without merit. Counsel has provided Appellant with a copy of the brief, the motion to withdraw, a form motion for access to the appellate records, and an explanatory letter. Counsel also advised Appellant of her right to review the records and file a response to counsel's brief.

We note that Appellant filed the motion for access to the appellate records in this court and that the clerk of this court sent the records to Appellant. We also note that Appellant has filed a response to counsel's brief. In her response, Appellant expresses her dissatisfaction with court-appointed counsel, and she asserts that she retained an attorney to handle these appeals. As we previously explained to Appellant, the attorney whom Appellant claims to have retained has not made an appearance in this court in either of these appeals.

Court-appointed counsel has complied with the requirements of *Anders v. California*, 386 U.S. 738 (1967); *Kelly v. State*, 436 S.W.3d 313 (Tex. Crim. App. 2014); *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. [Panel Op.] 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.). In addressing an *Anders* brief and pro se response, a court of appeals may only determine (1) that the appeal is wholly frivolous and issue an opinion explaining that it has reviewed the record and finds no reversible error or (2) that arguable grounds for appeal exist and remand the cause to the trial court so that new counsel may be appointed to brief the issues. *Schulman*, 252 S.W.3d at 409; *Bledsoe v. State*, 178 S.W.3d 824, 826–27 (Tex. Crim. App. 2005). Following the procedures outlined in *Anders* and *Schulman*, we have

independently reviewed the records, and we agree that the appeals are without merit and should be dismissed. *See Schulman*, 252 S.W.3d at 409.

We note that counsel has the responsibility to advise Appellant that she 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 she may file a petition for discretionary review pursuant to TEX. R. APP. P. 68.

We grant the motion to withdraw in each cause, and we dismiss the appeals.

PER CURIAM

June 30, 2017

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

Panel consists of: Wright, C.J.,
Willson, J., and Bailey, J.