

Opinion filed April 6, 2017



In The

Eleventh Court of Appeals

No. 11-16-00308-CR

WILLIAM CRAIG ROGERS, JR., Appellant
V.
THE STATE OF TEXAS, Appellee

On Appeal from the 91st District Court
Eastland County, Texas
Trial Court Cause No. 23186

MEMORANDUM OPINION

Appellant, William Craig Rogers, Jr., pleaded guilty to the offense of stalking. Pursuant to the terms of the plea agreement, the trial court found Appellant guilty, assessed his punishment at confinement for ten years and a fine of \$2,000, and placed him on community supervision for a term of five years. The State later filed a motion to revoke community supervision. After a contested hearing on revocation, the trial court found all of the State's allegations to be true, revoked Appellant's community supervision, and imposed the original sentence of ten years and the remainder of the original fine. 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 he has concluded that the appeal is frivolous and without merit. Counsel provided Appellant with a copy of the brief, a copy of the motion to withdraw, an explanatory letter, and a motion for pro se access to the appellate record. Counsel also advised Appellant of his right to review the record and file a response to counsel's brief. 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.).

Upon Appellant's pro se filing of the motion for access to the appellate record, this court granted the motion and provided Appellant with a copy of the clerk's record and the reporter's record. Appellant has filed a pro se response to counsel's brief. In his response, Appellant asserts, among other things, that he wishes to file a motion for new trial and that he received ineffective assistance of counsel. 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 record, and we agree that the appeal is without merit and

should be dismissed. *Schulman*, 252 S.W.3d at 409. The record from the contested hearing supports the trial court’s findings regarding the violations by Appellant of the terms and conditions of his community supervision. No evidentiary objections were lodged by Appellant’s counsel at the revocation hearing. Furthermore, absent a void judgment, issues relating to an original plea proceeding may not be raised in a subsequent appeal from the revocation of community supervision. *Jordan v. State*, 54 S.W.3d 783, 785–86 (Tex. Crim. App. 2001); *Traylor v. State*, 561 S.W.2d 492, 494 (Tex. Crim. App. [Panel Op.] 1978). Based upon our review of the record, we agree with counsel that no arguable grounds for appeal exist.

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.

April 6, 2017

PER CURIAM

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

Panel consists of: Wright, C.J.,
Willson, J., and Countiss.¹

Bailey, J., not participating.

¹Richard N. Countiss, Retired Justice, Court of Appeals, 7th District of Texas at Amarillo, sitting by assignment.