

Opinion filed February 23, 2023



In The

Eleventh Court of Appeals

No. 11-22-00113-CR

JUAN ANTONIO DELEON, JR., Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 42nd District Court
Taylor County, Texas
Trial Court Cause No. 29231-A**

MEMORANDUM OPINION

Juan Antonio DeLeon, Jr., Appellant, waived his right to a jury and entered an open plea of guilty to the indicted offense: the second-degree felony of burglary of a habitation. *See* TEX. PENAL CODE ANN. § 30.02(a)(3), (c)(2) (West 2019). Appellant also entered a plea of true to the habitual-offender enhancement paragraphs. *See id.* § 12.42(d). The trial court admonished Appellant, accepted his pleas and judicial confession, and recessed the proceedings so that a presentence investigation report could be prepared. The proceedings resumed at a later date, and

the trial court heard evidence on punishment—in addition to the presentence investigation report. At the end of the hearing, the trial court found Appellant guilty of the offense of burglary of a habitation, found both enhancement allegations to be true, and assessed Appellant’s punishment at imprisonment for a term of seventy-five years in the Institutional Division of the Texas Department of Criminal Justice. We affirm.

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 this appeal is frivolous and without merit. Counsel has provided Appellant with a copy of the brief, a copy of the motion to withdraw, an explanatory letter, a copy of the clerk’s record and the reporter’s record, and a pro se motion for access to the appellate record. Counsel advised Appellant of his right to review the record and file a response to counsel’s brief. Counsel also advised Appellant of his right to file a pro se petition for discretionary review in order to seek review by the Texas Court of Criminal Appeals. *See* TEX. R. APP. P. 68. 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); and *Stafford v. State*, 813 S.W.2d 503 (Tex. Crim. App. 1991).

Appellant filed a response to counsel’s *Anders* brief. We have reviewed Appellant’s *Anders* response. 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 with counsel that no arguable grounds for appeal exist.¹

We grant counsel's motion to withdraw, and we affirm the judgment of the trial court.

PER CURIAM

February 23, 2023

Do not publish.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

Panel consists of: Bailey, C.J.,
Trotter, J., and Williams, J.

¹We note that Appellant has a right to file a petition for discretionary review pursuant to Rule 68 of the Texas Rules of Appellate Procedure.