AFFIRMED as MODIFIED and Opinion Filed October 3, 2019

In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-18-00687-CR

CHRISTOPHER MICHAEL DUCHARME, Appellant
V.
THE STATE OF TEXAS, Appellee

On Appeal from the 199th Judicial District Court
Collin County, Texas
Trial Court Cause No. 199-80054-2018

MEMORANDUM OPINION

Before Justices Pedersen, III, Reichek, and Carlyle
Opinion by Justice Reichek

Christopher Michael Ducharme was charged in a three-count indictment with sexual assault of a child (counts I and II) and indecency with a child (count III). Appellant pleaded not guilty. After hearing the evidence, a jury convicted appellant on all charges and assessed punishment at five years in prison on counts I and II. As to count III, the jury assessed a sentence of five years in prison and a $10,000 fine but recommended appellant be placed on community supervision. The trial court followed the recommendation and placed appellant on probation for eight years on the indecency charge.

On appeal, appellant's attorney filed a brief in which she concludes the appeal is wholly frivolous and without merit. The brief meets the requirements of *Anders v. California*, 386 U.S. 738 (1967). The brief presents a professional evaluation of the record showing why, in effect,

there are no arguable grounds to advance. *See High v. State*, 573 S.W.2d 807, 812 (Tex. Crim. App. [Panel Op.] 1978) (determining whether brief meets requirements of *Anders*). This Court mailed a copy of the brief to appellant and notified him of his right to file a pro se response. *See Kelly v. State*, 436 S.W.3d 313, 31921 (Tex. Crim. App. 2014) (noting appellant has right to file pro se response to *Anders* brief filed by counsel). No response was filed.

We have reviewed the record and counsel's brief. *See Bledsoe v. State*, 178 S.W.3d 824, 826–27 (Tex. Crim. App. 2005) (explaining appellate court's duty in *Anders* cases). We agree the appeal is frivolous and without merit. We find nothing in the record that might arguably support the appeal.

Counsel pointed out in her brief that although not an arguable issue, the trial court's judgment incorrectly reflects a $10,000 fine was imposed on the two sexual assault convictions, counts I and II. The record, however, shows that the jury did not impose a fine on these counts. Accordingly, on our own motion, we modify the trial court's judgment on counts I and II to delete the $10,000 fine. *See* TEX. R. APP. P. 43.2(b); *Asberry v. State*, 813 S.W.2d 526, 529–30 (Tex. App.—Dallas 1991, pet. ref'd).

We affirm the trial court's judgment on counts I and II as modified. We affirm the trial court's judgment on count III.

/Amanda L. Reichek/
AMANDA L. REICHEK
JUSTICE

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TEX. R. APP. P. 47.2(b)
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Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT NUNC PRO TUNC

CHRISTOPHER MICHAEL DUCHARME, Appellant

No. 05-18-00687-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 199th Judicial District Court, Collin County, Texas
Trial Court Cause No. 199-80054-2018.
Opinion delivered by Justice Reichek; Justices Pedersen, III and Carlyle participating.

Based on the Court's opinion of this date, the judgment of the trial court as to Counts I and II is **MODIFIED** as follows:

To delete the fine of $10,000.

As **MODIFIED**, the judgment as to Counts I and II is **AFFIRMED**.

The judgment as to Count III is **AFFIRMED**.

Judgment entered this 8th day of January, 2020.