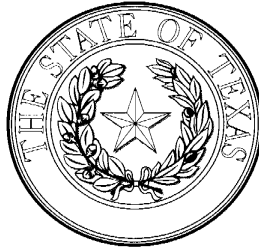


Opinion issued August 29, 2023



In The
Court of Appeals
For The
First District of Texas

NO. 01-22-00855-CR

RIGOBERTO RAMIREZ-DIAZ, Appellant
V.
THE STATE OF TEXAS, Appellee

On Appeal from the 21st District Court
Washington County, Texas
Trial Court Case No. 18474

MEMORANDUM OPINION

On November 8, 2018, appellant, Rigoberto Ramirez-Diaz, pleaded guilty to the offense of assault of a family member/household member by impeding breath/circulation and was sentenced, in accordance with a plea bargain to 10 years' incarceration in the Institutional Division of the Texas Department of Criminal

Justice, with the sentence suspended and Ramirez-Diaz placed on five years' community supervision. *See* TEX. PENAL CODE § 22.021(b). The State subsequently filed a motion to revoke community supervision. After a hearing, the trial court determined that the State had established the alleged violations of the terms of community supervision and revoked the community supervision and, on October 13, 2022, sentenced appellant to 10 years' incarceration in the Institutional Division of the Texas Department of Criminal Justice.

On appeal, appellant's appointed counsel filed a motion to withdraw, along with a brief, stating that the record presents no reversible error and the appeal is without merit and is frivolous. *See Anders v. California*, 386 U.S. 738 (1967).

Counsel's brief meets the *Anders* requirements by presenting a professional evaluation of the record and supplying us with references to the record and legal authority. *Id.* at 744; *see also High v. State*, 573 S.W.2d 807, 812 (Tex. Crim. App. 1978). Counsel indicates that he has thoroughly reviewed the record and is unable to advance any grounds of error that warrant reversal. *See Anders*, 386 U.S. at 744; *Mitchell v. State*, 193 S.W.3d 153, 155 (Tex. App.—Houston [1st Dist.] 2006, no pet.). The State waived the opportunity to file a response to the *Anders* brief.

Counsel advised appellant of his right to access the record and provided him with a form motion for access to the record. Counsel further advised appellant of

his right to file a pro se response to the *Anders* brief. Appellant did not request access to the record and did not file a pro se response to counsel's brief.

We have independently reviewed the entire record in this appeal, and we conclude that no reversible error exists in the record, there are no arguable grounds for review, and the appeal is frivolous. *See Anders*, 386 U.S. at 744 (emphasizing that reviewing court—and not counsel—determines, after full examination of proceedings, whether appeal is wholly frivolous); *Garner v. State*, 300 S.W.3d 763, 767 (Tex. Crim. App. 2009) (reviewing court must determine whether arguable grounds for review exist); *Bledsoe v. State*, 178 S.W.3d 824, 826–27 (Tex. Crim. App. 2005) (same); *Mitchell*, 193 S.W.3d at 155 (reviewing court determines whether arguable grounds exist by reviewing entire record). We note that an appellant may challenge a holding that there are no arguable grounds for appeal by filing a petition for discretionary review in the Texas Court of Criminal Appeals. *See Bledsoe*, 178 S.W.3d at 827 & n.6.

We affirm the judgment of the trial court and grant counsel's motion to withdraw.¹ Attorney Chris M. Dillon must immediately send appellant the required notice and file a copy of the notice with the Clerk of this Court. *See* TEX. R. APP. P. 6.5(c). We dismiss any pending motions as moot.

¹ Appointed counsel still has a duty to inform appellant of the result of this appeal and that he may, on his own, pursue discretionary review in the Texas Court of Criminal Appeals. *See Ex Parte Wilson*, 956 S.W.2d 25, 27 (Tex. Crim. App. 1997).

PER CURIAM

Panel consists of Justices Kelly, Landau, and Farris.

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