

*Court Of Appeals*  
*Fourth Court of Appeals District of Texas*  
*San Antonio*



**MEMORANDUM OPINION**

No. 04-07-00880-CR

Lupe **GOMEZ**,  
Appellant

v.

The **STATE** of Texas,  
Appellee

From the 399th Judicial District Court, Bexar County, Texas  
Trial Court No. 2006-CR-6522  
Honorable Juanita A. Vasquez-Gardner, Judge Presiding

Opinion by: Karen Angelini, Justice

Sitting: Karen Angelini, Justice  
Rebecca Simmons, Justice  
Steven C. Hilbig, Justice

Delivered and Filed: September 3, 2008

**AFFIRMED**

Appellant Lupe Gomez was charged by indictment with burglary of a habitation with the intent to commit a felony (repeater). Gomez entered an open plea of nolo contendere and pled true to having previously been convicted of murder. He was then sentenced to forty years of imprisonment. Gomez timely filed a notice of appeal. His court-appointed appellate attorney has filed a brief in which she raises two arguable points of error, but nonetheless concludes that this appeal is frivolous and without merit. *See Anders v. California*, 386 U.S. 738 (1967); *High v. State*,

573 S.W.2d 807 (Tex. Crim. App. 1978). Counsel states that appellant was provided with a copy of the brief and motion to withdraw and was further informed of his right to review the record and file his own brief. *See Bruns v. State*, 924 S.W.2d 176, 177 n.1 (Tex. App.—San Antonio 1996, no pet.). Gomez did not file a pro se brief.

We have reviewed the record and counsel's brief. We agree that the appeal is frivolous and without merit. The judgment of the trial court is affirmed. Furthermore, we grant the motion to withdraw. *See Nichols v. State*, 954 S.W.2d 83, 85-86 (Tex. App.—San Antonio 1997, no pet.); *Bruns*, 924 S.W.2d at 177 n.1.

Karen Angelini, Justice

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