

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



MEMORANDUM OPINION

No. 04-08-00120-CR

Fernando **MARROQUIN**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 186th Judicial District Court of Bexar County, Texas
Trial Court No. 2005-CR-5884
Honorable Pat Priest, Judge Presiding¹


Opinion by: Steven C. Hilbig, Justice

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

Delivered and Filed: December 3, 2008

MOTION TO WITHDRAW GRANTED; AFFIRMED

Fernando Marroquin pled nolo contendere to felony driving while intoxicated pursuant to a plea agreement. The trial court assessed a six year sentence in accordance with the agreement, suspended imposition of the sentence, and placed Marroquin on community supervision. The State later filed a motion to revoke, alleging Marroquin violated various conditions of his community supervision. After Marroquin pled true to nine of the alleged violations, the trial court revoked his

¹  Sitting by assignment.

community supervision and sentenced him to four years imprisonment in the Texas Department of Criminal Justice - Institutional Division. Marroquin appeals.

Marroquin's court-appointed appellate attorney filed a motion to withdraw and a brief in which she raises arguable points of error, but nonetheless concludes this appeal is frivolous and without merit. The brief meets the requirements of *Anders v. California*, 386 U.S. 738 (1967), *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. 1978), and *Gainous v. State*, 436 S.W.2d 137 (Tex. Crim. App. 1969). Counsel states Marroquin was provided a copy of the brief and motion to withdraw and informed of his right to review the record and file his own brief. He has not done so.

After reviewing the record and counsel's brief, we find no reversible error and agree with counsel the appeal is wholly frivolous. *See Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005). We therefore grant the motion to withdraw filed by Marroquin's counsel and affirm the trial court's judgment. *See id.*; *Nichols v. State*, 954 S.W.2d 83, 86 (Tex. App.—San Antonio 1997, no pet.); *Bruns v. State*, 924 S.W.2d 176, 177 n.1 (Tex. App.—San Antonio 1996, no pet.).

No substitute counsel will be appointed. Should Marroquin wish to seek further review of this case by the Texas Court of Criminal Appeals, he must either retain an attorney to file a petition for discretionary review or file a *pro se* petition for discretionary review. Any petition for discretionary review must be filed within thirty days from the date of either this opinion or the last timely motion for rehearing that is overruled by this court. *See* TEX. R. APP. P. 68.2. Any petition for discretionary review must be filed with this court, after which it will be forwarded to the Texas Court of Criminal Appeals along with the rest of the filings in this case. *See id.* R. 68.3. Any petition for discretionary review must comply with the requirements of Rule 68.4 of Texas Rules of Appellate Procedure. *See id.* R. 68.4.

Steven C. Hilbig, Justice

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