

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



MEMORANDUM OPINION

No. 04-08-00122-CR

Stephen Wayne **MCCOY**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 290th Judicial District Court, Bexar County, Texas
Trial Court No. 2005-CR-5293
Honorable Sharon MacRae, Judge Presiding

Opinion by: Catherine Stone, Justice

Sitting: Alma L. López, Chief Justice
Catherine Stone, Justice
Santee Bryan Marion, Justice

Delivered and Filed: October 15, 2008

AFFIRMED

Stephen McCoy pleaded nolo contendere to the offense of injury to a disabled individual, and was placed on five years deferred adjudication probation for the offense. The State subsequently filed a motion to revoke McCoy's probation and proceed to final adjudication, alleging McCoy had violated the terms of his probation by failing to attend anger management classes, pay administrative fees, and report to his probation officer. After a hearing on the State's motion, the trial court adjudicated McCoy guilty and sentenced him to four years imprisonment and fined him \$1,200. We affirm.

McCoy's court-appointed attorney filed a brief containing a professional evaluation of the record in accordance with *Anders v. California*, 386 U.S. 738 (1967). Counsel concludes that the appeal is frivolous and without merit. Counsel provided McCoy with a copy of the brief and informed him of his right to review the record and file his own brief. *See Nichols v. State*, 954 S.W.2d 83, 85-86 (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.). McCoy did not file a *pro se* brief.

After reviewing the record and counsel's brief, we agree that the appeal is frivolous and without merit. The judgment of the trial court is therefore affirmed. Furthermore, we grant appellate counsel's motion to withdraw. *Nichols v. State*, 954 S.W.2d at 86; *Bruns* 924 S.W.2d at 177 n.1. No substitute counsel will be appointed. Should McCoy 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 was 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. *See* TEX. R. APP. P. 68.3; 68.7. Any petition for discretionary review should comply with the requirements of Rule 68.4 of the Texas Rules of Appellate Procedure. *See* TEX. R. APP. P. 68.4.

Catherine Stone, Justice

DO NOT PUBLISH