

**In The**  
***Court of Appeals***  
***Ninth District of Texas at Beaumont***

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**NO. 09-09-00030-CR**

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**MICHAEL O'NEAL SUTTON, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 1-A District Court  
Newton County, Texas  
Trial Cause No. ND 5852**

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**MEMORANDUM OPINION**

A jury found Michael O'Neal Sutton guilty of attempted aggravated assault on a public servant. *See* TEX. PEN. CODE ANN. § 15.01 (Vernon 2003); *see also* TEX. PEN. CODE ANN. § 22.02(a)(2), (b)(2)(B) (Vernon Supp. 2009). The jury made an affirmative finding that Sutton used a deadly weapon. In punishment, the jury found Sutton to be an habitual offender and assessed a sentence of sixty years.

On appeal, Sutton's counsel filed a brief that presents counsel's professional evaluation of the record and concludes the appeal is frivolous. *See Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967); *High v. State*, 573 S.W.2d 807

(Tex. Crim. App. 1978). On June 17, 2010, we granted an extension of time for the appellant to file a *pro se* brief. Sutton has not filed a response.

We reviewed the appellate record, and we agree with counsel's conclusion that no arguable issues support an appeal. Therefore, we find it unnecessary to order appointment of new counsel to re-brief the appeal. *Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005); *cf. Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991). We affirm the trial court's judgment.<sup>1</sup>

AFFIRMED.

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HOLLIS HORTON  
Justice

Submitted on September 17, 2010  
Opinion Delivered October 6, 2010  
Do Not Publish

Before McKeithen, C.J., Kreger and Horton, JJ.

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<sup>1</sup>Appellant may challenge our decision in this case by filing a petition for discretionary review. *See* TEX. R. APP. P. 68.