

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-09-00433-CR

DON ALBERT LANG, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 252nd District Court
Jefferson County, Texas
Trial Cause No. 07-01321

MEMORANDUM OPINION

After entering a plea-bargain agreement, Don Albert Lang pled guilty to aggravated assault on a public servant, a first degree felony. *See* TEX. PEN. CODE ANN. § 22.02 (Vernon Supp. 2009).¹ In accordance with the plea-bargain agreement, the trial court deferred the adjudication of Lang's guilt, placed Lang on community supervision for ten years, and assessed a \$1500 fine. The State subsequently filed a motion to revoke Lang's community supervision. The motion alleges that Lang committed five violations

¹We cite to the current version of Penal Code section 22.02, because the 2009 amendment did not substantively change the subsection upon which the indictment relies.

of the terms established for Lang's community supervision. Lang pled "true" to two of the violations. The trial court accepted Lang's pleas, found the evidence sufficient to find one of the other counts "true," revoked Lang's community supervision, found Lang guilty, found the enhancement provisions in the indictment to be true, and then sentenced Lang to seventy-five years' confinement. *See* TEX. PEN. CODE ANN. § 12.42(c)(1) (Vernon Supp. 2009) (authorizing a first degree felony to be enhanced by proving a prior final felony conviction to a term of fifteen years' imprisonment to life).

Lang's appellate counsel filed an *Anders* brief. *See Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967). Counsel's brief meets the *Anders* requirements by representing a professional evaluation of the record that is sufficient to explain why no arguable grounds can be advanced in Lang's appeal. *See High v. State*, 573 S.W.2d 807, 813 (Tex. Crim. App. 1978). Appellant's counsel provided Lang with a copy of the brief.

Lang filed a pro se brief raising various issues about his original guilty plea, and he argues that he was denied his constitutional right to a fair trial. With respect to his guilty pleas, Lang contends that his plea was involuntarily obtained by threat and deception of the trial court.

In addressing an *Anders* brief that includes a pro se response, a court of appeals may determine only (1) that the appeal is wholly frivolous and issue an opinion explaining that the court has reviewed the record and finds no reversible error, or (2) that

arguable grounds for appeal exist and remand the cause to the trial court so that new counsel may be appointed to brief the issues. *Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005). Having reviewed the clerk's record, the reporter's record, counsel's brief, and Lang's pro se brief in which Lang fails to raise any appealable issues over which we have jurisdiction, we agree that Lang's appeal is frivolous. *See id.* Therefore, we find it unnecessary to order appointment of new counsel to re-brief Lang's appeal. *See id.*; *cf. Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991). We affirm the trial court's judgment.²

AFFIRMED.

HOLLIS HORTON
Justice

Submitted on June 17, 2010
Opinion Delivered July 7, 2010
Do Not Publish

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

²Lang may challenge our decision in this case by filing a petition for discretionary review. *See* TEX. R. APP. P. 68.