

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

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**NO. 09-10-00224-CR**

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**DUSTIN COLE SPELL a/k/a DUSTIN SPELL, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 252nd District Court**  
**Jefferson County, Texas**  
**Trial Cause No. 95275**

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**MEMORANDUM OPINION**

Appellant Dustin Cole Spell a/k/a Dustin Spell was indicted for aggravated robbery. Spell pled guilty pursuant to a plea bargain agreement. The trial court found the evidence sufficient to find Spell guilty, but deferred further proceedings, placed Spell on community supervision for ten years, and assessed a fine of \$1000. The State subsequently filed a motion to revoke Spell's unadjudicated community supervision. Spell pled "true" to five of the alleged violations of the conditions of his community supervision. The trial court found that Spell violated the conditions of his community supervision, found Spell guilty of aggravated robbery, and assessed punishment at thirty years of confinement. Spell then filed this appeal.

Spell's appellate 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). Spell filed a *pro se* brief in response. The Court of Criminal Appeals has held that we need not address the merits of issues raised in *Anders* briefs or *pro se* responses. *Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005). Rather, an appellate court may determine either: (1) "that the appeal is wholly frivolous and issue an opinion explaining that it 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." *Id.*

We have determined that this appeal is wholly frivolous. We have independently examined the clerk's record and the reporter's record, and we agree that no arguable issues support an appeal. *See id.* Therefore, we find it unnecessary to order appointment of new counsel to re-brief the appeal. *Compare 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 February 9, 2011  
Do Not Publish  
Before McKeithen, C.J., Gaultney 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.*