

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-10-00439-CR

TYRONE GILBERT, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 252nd District Court
Jefferson County, Texas
Trial Cause No. 07-02528**

MEMORANDUM OPINION

A jury convicted Tyrone Gilbert of murder. *See* Tex. Penal Code Ann. § 19.02(b)(1) (West 2011). The jury assessed punishment at life imprisonment. Appellant filed a timely notice of appeal.

Gilbert's appellate counsel filed a brief that presents counsel's professional evaluation of the record and concludes that the appeal is frivolous. *See Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967); *see also High v. State*, 573 S.W.2d 807 (Tex. Crim. App. 1978). On February 17, 2011, we granted an extension of time for the appellant to file a *pro se* brief. Gilbert filed a *pro se* response alleging

insufficiency of the evidence. He also alleged that the trial court erred in admitting photographs of a gun and evidence of extraneous offenses, and in sustaining the State's objection to appellant's jury strikes during voir dire. He filed a motion to abate and remand for appointment of new counsel to raise an issue concerning the jury.

In *Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005), the Court of Criminal Appeals held that an appellate court need not address the merits of issues raised in *Anders* briefs or *pro se* responses. 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.* The Court held in *Garner v. State*, 300 S.W.3d 763, 764 (Tex. Crim. App. 2009) that "when a court of appeals finds no issues of arguable merit in an *Anders* brief, it may explain why the issues have no arguable merit." *Id.* "The provision of analysis [by the appellate court] does not necessarily imply that there is arguable merit" that would necessitate appointment of counsel to brief the issues. *Id.* at 767.

We have independently examined the clerk's record, the reporter's record, the *Anders* brief, and the *pro se* responses in this case, and we agree that no arguable issues support an appeal. *See id.* at 766-67. 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.¹

AFFIRMED

DAVID GAULTNEY
Justice

Submitted on August 10, 2011
Opinion Delivered August 24, 2011
Do Not Publish

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

¹Gilbert may challenge our decision in this case by filing a petition for discretionary review. *See* Tex. R. App. P. 68.