

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-11-00177-CR

RICHARD E. SMITH, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 252nd District Court
Jefferson County, Texas
Trial Cause No. 09-06809

MEMORANDUM OPINION

Pursuant to a plea bargain agreement, appellant Richard E. Smith pleaded guilty to possession of a controlled substance, namely cocaine. The trial court found the evidence sufficient to find Smith guilty, but deferred further proceedings, placed Smith on community supervision for five years, and assessed a fine of \$500. The State subsequently filed a motion to revoke Smith's unadjudicated community supervision. Smith pleaded "true" to three violations of the conditions of his community supervision. The trial court found that Smith had violated the conditions of his community

supervision, found Smith guilty of possession of a controlled substance, and assessed punishment at two years of confinement in a state jail facility.

Smith'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). On May 5, 2011, we granted an extension of time for appellant to file a *pro se* brief. We received no response from appellant. 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. *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 2, 2011
Opinion Delivered August 10, 2011
Do Not Publish

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

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