In the
Court of Appeals
Second Appellate District of Texas
at Fort Worth

No. 02-22-00275-CR

JERRY STEPHENS, Appellant

V.

THE STATE OF TEXAS

On Appeal from County Criminal Court No. 5
Denton County, Texas
Trial Court No. F21-1870-158

Before Sudderth, C.J.; Kerr and Birdwell, JJ.
Memorandum Opinion by Chief Justice Sudderth

MEMORANDUM OPINION

Jerry Stephens appeals from his conviction and 15-year sentence of confinement for felony driving while intoxicated (DWI). *See* Tex. Penal Code Ann. §§ 49.04(a), 49.09(b)(2). We affirm the trial court's judgment.

At trial, Stephens stipulated to two prior jurisdictional DWI convictions. After hearing evidence about the charged offense, a jury found him guilty of felony DWI as alleged in the indictment.[1] As elected by Stephens, the trial judge determined punishment and sentenced Stephens to confinement within the range for a second-degree felony.[2]

Stephens's court-appointed appellate counsel has filed a motion to withdraw as counsel and a supporting brief, in which he concludes that in his professional opinion, this appeal is frivolous and without merit. The brief and motion present a professional evaluation of the record demonstrating why there are no arguable grounds for relief. *See Anders v. California*, 386 U.S. 738, 744, 87 S. Ct. 1396, 1400

---

[1]The evidence consisted of officer testimony, bodycam video, and blood-draw results.

[2]The offense for which Stephens was convicted, a third-degree felony, was further enhanced by a prior felony allegation, to which he pleaded true. *See* Tex. Penal Code Ann. §§ 12.33(a), 12.42(a).

(1967).[3] Although Stephens filed a pro se response, the State declined to file a responsive brief.

After an appellant's court-appointed attorney files a motion to withdraw on the ground that an appeal is frivolous and fulfills *Anders*'s requirements, we must independently examine the record for any arguable ground that could be raised on the appellant's behalf. *See Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991). Only then may we grant counsel's motion to withdraw. *See Penson v. Ohio*, 488 U.S. 75, 82–83, 109 S. Ct. 346, 351 (1988).

After considering the appellate record, the arguments raised in the *Anders* brief, and Stephens's response, *see In re Schulman*, 252 S.W.3d 403, 409 (Tex. Crim. App. 2008) (orig. proceeding), we conclude that there is nothing in the record that might arguably support the appeal and that the appeal is frivolous, *see Bledsoe v. State*, 178 S.W.3d 824, 827–28 (Tex. Crim. App. 2005). We therefore grant counsel's motion to withdraw and affirm the trial court's judgment.

/s/ Bonnie Sudderth

Bonnie Sudderth
Chief Justice

Do Not Publish
Tex. R. App. P. 47.2(b)

Delivered: October 26, 2023

[3]Counsel has also complied with the requirements of *Kelly v. State*, 436 S.W.3d 313, 319 (Tex. Crim. App. 2014).