

NO. 07-05-0077-CR
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL B
OCTOBER 18, 2005

PEDRO J. EREVIA, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

FROM THE 140TH DISTRICT COURT OF LUBBOCK COUNTY;
NO. 2002-439088; HONORABLE JIM BOB DARNELL, JUDGE

Before QUINN, C.J., and CAMPBELL and HANCOCK, JJ.

MEMORANDUM OPINION

Appellant, Pedro J. Erevia, appeals from an adjudication of guilt for the offense of aggravated assault with a deadly weapon and punishment of confinement for ten years. We affirm.

Appellant was charged by indictment with aggravated assault with a deadly weapon. Pursuant to a plea agreement with the State, appellant waived trial by jury and entered a plea of guilty. The trial court accepted the plea of guilty, found that the evidence

substantiated appellant's guilt, followed the plea agreement and, on March 5, 2003, deferred adjudication of appellant and placed appellant on community supervision for ten years. Appellant did not appeal from these proceedings.

On September 1, 2004, the State filed a First Amended Motion to Proceed With Adjudication of Guilt. At a hearing on the motion, appellant pled not true to the allegations in the motion. After hearing evidence, the trial court found all of the allegations true except the allegation in paragraph (a) and adjudicated appellant guilty. Following a separate punishment hearing, the court sentenced appellant to confinement in the Institutional Division of the Texas Department of Criminal Justice for eight years.

Appellant's appointed appellate counsel has filed a Motion to Withdraw and a Brief in Support thereof. In support of the motion, counsel has certified that, in compliance with Anders v. California, 386 U.S. 738, 744-45, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), the record has been diligently reviewed. Counsel has concluded the record reflects no reversible error or grounds upon which a non-frivolous appeal can arguably be predicated. Counsel thus concludes that the appeal is frivolous.

In reaching the conclusion that the appeal is frivolous, counsel identifies one possible issue. That issue is that the trial court erred in admitting the in-car police video. However, after referencing, analyzing and discussing the trial record, counsel has discussed why, under the controlling authorities, there is no arguably reversible error in the trial court proceeding or judgment. See High v. State, 573 S.W.2d 807, 813

(Tex.Crim.App. 1978). Counsel's brief demonstrates a conscientious review of the entire record and analysis of the legal issues involved in a potential appeal.

Counsel has attached exhibits showing that a copy of the Anders brief and Motion to Withdraw have been forwarded to appellant, and that counsel has appropriately advised appellant of his right to review the record and file a response to counsel's motion and brief. Appellant has not filed a response.

We have made an independent examination of the record to determine whether there are any arguable grounds meriting appeal. See Penson v. Ohio, 488 U.S. 75, 82-83, 109 S.Ct. 346, 102 L.Ed.2d 300 (1988); Stafford v. State, 813 S.W.2d 503, 511 (Tex.Crim.App. 1991). We have found no such grounds. We agree that the appeal is frivolous.

Accordingly, counsel's Motion to Withdraw is granted. The judgment of the trial court is affirmed.

Mackey K. Hancock
Justice

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