NO. 07-05-0171-CR

IN THE COURT OF APPEALS

FOR THE SEVENTH DISTRICT OF TEXAS

AT AMARILLO

PANEL C

DECEMBER 21, 2005

ANDREW PAUL JIMENEZ, JR. A/K/A FRANCISCO CASTILLO, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

FROM THE 47TH DISTRICT COURT OF RANDALL COUNTY;

NO. 15,832-A; HONORABLE HAL MINER, JUDGE

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

MEMORANDUM OPINION

Appellant, Andrew Paul Jimenez, Jr., appeals his conviction for possession of a controlled substance, twice enhanced by prior felony convictions, and sentence of ten years incarceration in the Institutional Division of the Texas Department of Criminal Justice. Appellant's counsel has filed a brief in compliance with Anders v. California, 386 U.S. 738, 744-45, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), and Gainous v. State, 436 S.W.2d 137, 138 (Tex.Crim.App. 1969). We affirm.

Appellant was charged by indictment with the offense of possession of a controlled substance (amphetamine) in an amount less than one gram. This indictment further included two enhancement paragraphs alleging that appellant had twice been convicted of felony offenses. On May 10, 2004, appellant entered a plea of guilty to the possession charge and pleas of true to each of the enhancement paragraphs. After a punishment hearing, the trial court sentenced appellant to ten years imprisonment.

Appellant's counsel has filed a brief, in compliance with Anders and Gainous, stating that he has diligently reviewed the appellate record and is of the opinion that the record reflects no reversible error upon which an appeal can arguably be predicated. Counsel thus concludes that the appeal is frivolous. Counsel's brief presents a chronological summation of the procedural history of the case and discusses why, under the controlling authorities, there is no reversible error in the trial court proceedings and judgment. See High v. State, 573 S.W.2d 807, 813 (Tex.Crim.App. 1978).

Counsel has attached an exhibit showing that a copy of the Anders brief has been forwarded to appellant and that counsel has appropriately advised appellant of his right to review the record and file a *pro se* response to counsel's motion and brief. The clerk of this court has also advised appellant by letter of his right to file a response to counsel's brief. Appellant has not filed a response.

We have made an independent examination of the record to determine whether there are any non-frivolous grounds upon which an appeal could arguably be founded. See

Penson v. Ohio, 488 U.S. 75, 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.

Appellant's counsel has moved for leave to withdraw. See Johnson v. State, 885 S.W.2d 641, 645 (Tex.App.–Waco 1994, writ ref'd). We carried the motion for consideration with the merits of the appeal. Having considered the merits and finding no reversible error, appellant's counsel's motion to withdraw is granted and the trial court's judgment is affirmed.

Mackey K. Hancock
Justice

Do not publish.