



**In The  
Court of Appeals  
Seventh District of Texas at Amarillo**

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No. 07-18-00041-CR

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**RICHARD LEE BRITTEN, APPELLANT**

**V.**

**THE STATE OF TEXAS, APPELLEE**

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On Appeal from the 108th District Court  
Potter County, Texas  
Trial Court No. 74,094-E, Honorable Douglas R. Woodburn, Presiding

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**April 1, 2019**

**MEMORANDUM OPINION**

**Before CAMPBELL and PIRTLE and PARKER, JJ.**

On January 29, 2018, Richard Lee Britten, appellant, entered a plea of guilty to the offense of intoxication manslaughter, a second-degree felony.<sup>1</sup> He pled not true to the allegation that he used a deadly weapon in the commission of the offense. After finding appellant guilty, and finding that he used a deadly weapon, the trial court sentenced appellant to twelve years of confinement in the Institutional Division of the Texas Department of Criminal Justice. Appellant appealed.

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<sup>1</sup> See TEX. PENAL CODE ANN. § 49.08 (West 2011).

Appellant's appointed counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967), and *In re Schulman*, 252 S.W.3d 403, 406 (Tex. Crim. App. 2008). Because we agree with counsel's conclusion that the record fails to show any arguably meritorious issue that could support an appeal, we affirm.

After appellant filed notice of appeal, his appointed counsel filed a motion to withdraw and a brief in support pursuant to *Anders*, in which she certified that she had reviewed the record and found no meritorious or non-frivolous grounds for appeal. See *Anders*, 386 U.S. 738 at 744-45. In compliance with *High v. State*, 573 S.W.2d 807, 813 (Tex. Crim. App. [Panel Op.] 1978), counsel has discussed why, under the controlling authorities, there is no error in the trial court's judgment. Counsel has complied with the requirements of *Anders* by providing a copy of her brief, motion to withdraw, and appellate record to appellant, and notifying him of his right to file a pro se response if he desired to do so. *Kelly v. State*, 436 S.W.3d 313, 319-20 (Tex. Crim. App. 2014). This Court has also advised appellant of his right to file a pro se response. Appellant has not filed a response.

The trial court heard evidence that on March 17, 2017, appellant ran a red light while driving north near downtown Amarillo, causing his truck to "T-bone" an eastbound car. Surveillance camera footage from a nearby business was in evidence, showing the collision. The car's passenger died at the scene. Evidence showed that appellant had a blood alcohol concentration of .142.

After appellant was sentenced, the prosecuting attorney learned that the Texas Alcoholic Beverage Commission (TABC) had investigated the incident. The prosecutor

notified appellant's trial attorney, who filed a motion for new trial alleging that knowledge of TABC's investigation "would have influenced advice given to the defendant in deciding this case." There was no hearing on the motion and it was apparently overruled by operation of law.

Counsel's *Anders* brief asserts that TABC's investigation adduced nothing to contradict any of the facts in evidence and evidence of the investigation would not have brought about a different result in a new trial.

We have independently examined the record to determine whether there are any non-frivolous issues that were preserved in the trial court which might support the 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). After carefully reviewing the record and the *Anders* brief, we agree with counsel that there are no plausible grounds for reversal.

Accordingly, we grant counsel's motion to withdraw<sup>2</sup> and affirm the judgment of the trial court.

Judy C. Parker  
Justice

Do not publish.

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<sup>2</sup> Counsel shall, within five days after the opinion is handed down, send appellant a copy of the opinion and judgment, along with notification of appellant's right to file a pro se petition for discretionary review. See TEX. R. APP. P. 48.4. This duty is an informational one, not a representational one. It is ministerial in nature, does not involve legal advice, and exists after the court of appeals has granted counsel's motion to withdraw. *In re Schulman*, 252 S.W.3d at 411 n.33.