



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

No. 07-20-00181-CR

ILENE SILVA GUTIERREZ, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 264th District Court
Bell County, Texas¹
Trial Court No. 81247, Honorable Paul L. LePak, Presiding

July 26, 2021

MEMORANDUM OPINION

Before **QUINN, C.J.**, and **PIRTLE and PARKER, JJ.**

Appellant, Ilene Silva Gutierrez, was charged with the third-degree offense of evading arrest or detention with a motor vehicle.² Through an open plea, appellant

¹ Originally appealed to the Third District Court of Appeals, this case was transferred to this Court by the Texas Supreme Court pursuant to its docket equalization efforts. See TEX. GOV'T CODE ANN. § 73.001 (West 2013). Should a conflict exist between precedent of the Third Court of Appeals and this Court on any relevant issue, this appeal will be decided in accordance with the precedent of the transferor court. TEX. R. APP. P. 41.3.

² See TEX. PENAL CODE ANN. § 38.04(b)(2)(A) (West. 2016).

entered a plea of guilty. During the hearing on her plea, the trial court admonished appellant that, if found guilty of the offense, she faced between two and ten years in the penitentiary and a fine of up to \$10,000. Appellant acknowledged that she understood. The trial court accepted appellant's guilty plea and ordered the preparation of a presentence investigation report.

At the sentencing hearing a few months later, the trial court found appellant guilty and sentenced appellant to seven years' confinement in the Texas Department of Criminal Justice. This appeal followed.

Appellant's counsel on appeal has filed a motion to withdraw supported by an *Anders*³ brief. We grant counsel's motion and affirm the judgment of the trial court. Counsel has certified that she has conducted a conscientious examination of the record and, in her opinion, the record reflects no reversible error upon which an appeal can be predicated. *Anders*, 386 U.S. at 744; *In re Schulman*, 252 S.W.3d 403, 406 (Tex. Crim. App. 2008). 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, the record presents no reversible error. In a letter to appellant, counsel notified her of her motion to withdraw; provided her with a copy of the motion, *Anders* brief, and motion for pro se access to the appellate record; and informed her of her right to file a pro se response. See *Kelly v. State*, 436 S.W.3d 313, 319-20 (Tex. Crim. App. 2014) (specifying appointed counsel's obligations on the filing of a motion to withdraw supported by an *Anders* brief). By letter, this Court also advised appellant of her right to file a pro se

³ See *Anders v. California*, 386 U.S. 738, 744, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967).

response to counsel's *Anders* brief. Appellant has filed a response. The State has not filed a brief.

By her *Anders* brief, counsel discusses areas in the record where reversible error may have occurred but concludes that the appeal is frivolous. 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 an appeal but, like counsel, we have found no such issues. See *Person v. Ohio*, 488 U.S. 75, 80, 109 S. Ct. 346, 102 L. Ed. 2d 300 (1988); *In re Schulman*, 252 S.W.3d at 409; *Gainous v. State*, 436 S.W.2d 137, 138 (Tex. Crim. App. 1969). Following our review of the appellate record and counsel's brief, we conclude there are no plausible grounds for appellate review.

Therefore, we grant counsel's motion to withdraw.⁴ The judgment of the trial court is affirmed.

Judy C. Parker
Justice

Do not publish.

⁴ 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.