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

No. 07-21-00074-CR

JESSICA LEANN WALKER, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 100th District Court
Childress County, Texas
Trial Court No. 6581; Honorable Stuart Messer, Presiding

November 18, 2021

## MEMORANDUM OPINION

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

Appellant, Jessica Leann Walker, was placed on deferred adjudication community supervision in June 2020, following her plea of guilty to the state jail felony offense of possession of methamphetamine.[1] After the State filed a motion to adjudicate guilt, the court held a hearing at which Appellant pleaded "not true" to the State's allegations. At

[1] TEX. HEALTH & SAFETY CODE ANN. § 481.115(b) (West Supp. 2021).

the conclusion of that hearing, the trial court entered a judgment adjudicating Appellant guilty as charged and imposed a sentence of two years of confinement and a fine of $500. The trial court suspended imposition of the jail sentence in favor of community supervision for a period of five years, including a period of confinement of ninety days and payment of restitution of $180.00 and court costs of $340.00, as conditions of community supervision. Appellant seeks to appeal the judgment of the trial court adjudicating guilt. In presenting this appeal, counsel has filed an *Anders*[2] brief in support of a motion to withdraw. We affirm and grant counsel's motion to withdraw.

In support of her motion to withdraw, counsel certifies she has conducted a conscientious examination of the record, and in her opinion, the record reflects no potentially plausible basis for reversal of Appellant's conviction. *Anders v. California*, 386 U.S. 738, 744-45, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967); *In re Schulman*, 252 S.W.3d 403, 406 (Tex. Crim. App. 2008). Counsel candidly discusses why, under the controlling authorities, the record supports that conclusion. *See High v. State*, 573 S.W.2d 807, 813 (Tex. Crim. App. 1978). Counsel has demonstrated she has complied with the requirements of *Anders* and *In re Schulman* by (1) providing a copy of the brief to Appellant, (2) notifying her of her right to review the record and file a *pro se* response if she desired to do so, and (3) informing her of her right to file a *pro se* petition for discretionary review.[3] *In re Schulman*, 252 S.W.3d at 408. By letter, this court granted

[2] *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 496 (1967).

[3] Notwithstanding that Appellant was informed of her right to file a *pro se* petition for discretionary review on execution of the *Trial Court's Certification of Defendant's Right of Appeal*, counsel must comply with Rule 48.4 of the Texas Rules of Appellate Procedure which provides that counsel shall within five days after this opinion is handed down, send Appellant a copy of the opinion and judgment together with notification of her right to file a *pro se* petition for discretionary review. *In re Schulman*, 252 S.W.3d at 408 n.22 & 411 n.35. The duty to send the client a copy of this court's decision is ministerial in nature, does not involve legal advice, and exists after the court of appeals has granted counsel's motion to withdraw. *Id.* at 411 n.33.

Appellant an opportunity to exercise her right to file a response to counsel's brief. Appellant did not do so. The State did not favor us with a brief.

By the *Anders* brief, counsel evaluates the underlying proceedings and raises potential error in the sufficiency of the evidence to support the revocation and the possibility that the sentence was disproportionate to the gravity of the offense. Counsel then concludes the record does not support reversible error.

**STANDARD OF REVIEW**

An appeal from a trial court's order adjudicating guilt is reviewed in the same manner as a revocation hearing. *See* TEX. CODE CRIM. PROC. ANN. art. 42.12, § 5(b). When reviewing an order revoking community supervision imposed under an order of deferred adjudication, the sole question before this court is whether the trial court abused its discretion. *Rickels v. State*, 202 S.W.3d 759, 763 (Tex. Crim. App. 2006); *Cardona v. State*, 665 S.W.2d 492, 493 (Tex. Crim. App. 1984); *Jackson v. State*, 645 S.W.2d 303, 305 (Tex. Crim. App. 1983). In a revocation proceeding, the State must prove by a preponderance of the evidence that the probationer violated a condition of community supervision as alleged in the motion to revoke. *Cobb v. State*, 851 S.W.2d 871, 874 (Tex. Crim. App. 1993). When more than one violation of the conditions of community supervision is alleged, a single violation is adequate, and the revocation order shall be affirmed if at least one sufficient ground supports the court's order. *Moore v. State*, 605 S.W.2d 924, 926 (Tex. Crim. App. 1980); *Jones v. State*, 571 S.W.2d 191, 193 (Tex. Crim. App. 1978). The trial court abuses its discretion in revoking community supervision if, as to every ground alleged, the State fails to meet its burden of proof. *Cardona*, 665 S.W.2d at 494. In determining the sufficiency of the evidence to sustain a revocation, we view

the evidence in the light most favorable to the trial court's ruling. *Jones v. State*, 589 S.W.2d 419, 421 (Tex. Crim. App. 1979).

**ANALYSIS**

Appellant's community supervision officer testified to various violations of the conditions of her community supervision including failure to report, failure to pay community supervision fees, failure to pay other required costs, fines, and fees, and failure to file a financial statement explaining inability to pay costs, fines, and fees. The officer told the court that after the initial intake with Appellant, she did nothing to adhere to the terms and conditions of her community supervision. The officer sent two failure-to-report letters to the address Appellant provided but she did not respond in any way, nor did she report or pay as required. At the conclusion of the hearing, the trial court found sufficient evidence to find under the required burden of proof that Appellant violated the conditions of her community supervision as alleged in the State's motion. Based on the record before us, we find the trial court did not abuse its discretion in finding the State's allegations to be true and revoking Appellant's community supervision.

We have independently examined the entire 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, 80, 109 S. Ct. 346, 102 L. Ed. 2d 300 (1988); *In re Schulman*, 252 S.W.3d at 409; *Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991). We have found no such issues. *See Gainous v. State*, 436 S.W.2d 137, 138 (Tex. Crim. App. 1969). After reviewing the record and counsel's brief, we agree with counsel that there is no plausible basis for reversal of Appellant's conviction. *See Bledsoe*, 178 S.W.3d at 826-27.

Accordingly, the trial court's judgment is affirmed and counsel's motion to withdraw is granted.

Patrick A. Pirtle
Justice

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