



IN THE
TENTH COURT OF APPEALS

No. 10-11-00017-CR

VICTOR ANTONIO RUIZ,

Appellant

v.

THE STATE OF TEXAS,

Appellee

From the 19th District Court
McLennan County, Texas
Trial Court No. 2010-813-C1

MEMORANDUM OPINION

After Victor Ruiz entered an open guilty plea to the felony offense of aggravated assault with a deadly weapon, a jury assessed a twenty-year prison sentence and a \$10,000 fine. Ruiz appealed.

Ruiz's appointed appellate counsel has filed a motion to withdraw and an *Anders* brief, asserting that he has diligently reviewed the appellate record and that, in his opinion, the appeal is frivolous. *See Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967). Although informed of his right to do so, Ruiz did not file a *pro se*

response to the *Anders* brief.

In an *Anders* case, we must, “after a full examination of all the proceedings, [] decide whether the case is wholly frivolous.” *Anders*, 386 U.S. at 744, 87 S.Ct. at 1400; accord *Stafford v. State*, 813 S.W.2d 503, 509-11 (Tex. Crim. App. 1991). An appeal is “wholly frivolous” or “without merit” when it “lacks any basis in law or fact.” *McCoy v. Court of Appeals*, 486 U.S. 429, 439 n.10, 108 S.Ct. 1895, 1902 n.10, 100 L.Ed.2d 440 (1988).

We have conducted an independent review of the record, and because we find this appeal to be wholly frivolous, we affirm the judgment. Counsel must send Ruiz a copy of our decision by certified mail, return receipt requested, at Ruiz’s last known address. TEX. R. APP. P. 48.4. Counsel must also notify Ruiz of his right to file a *pro se* petition for discretionary review. *Id.*; see also *Ex parte Owens*, 206 S.W.3d 670, 673-74 (Tex. Crim. App. 2006). We grant counsel’s motion to withdraw, effective upon counsel’s compliance with this notification requirement as evidenced by “a letter [to this Court] certifying his compliance.” See TEX. R. APP. P. 48.4.

REX D. DAVIS
Justice

Before Chief Justice Gray,
Justice Davis, and
Justice Scoggins

Affirmed
Opinion delivered and filed March 21, 2012
Do not publish
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