

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

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**NO. 03-10-00074-CR**

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**Derrick Wayne McDonald, Appellant**

**v.**

**The State of Texas, Appellee**

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**FROM THE DISTRICT COURT OF BELL COUNTY, 264TH JUDICIAL DISTRICT  
NO. 63164, HONORABLE MARTHA J. TRUDO, JUDGE PRESIDING**

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**MEMORANDUM OPINION**

A jury found appellant Derrick Wayne McDonald guilty of aggravated robbery and assessed punishment at thirty-eight years' imprisonment. *See* Tex. Penal Code Ann. § 29.03 (West 2003). The trial court ordered the sentence to run consecutively with the sentence imposed in another Bell County cause.<sup>1</sup>

On September 16, 2010, appellant's court-appointed attorney filed a motion to withdraw supported by a brief concluding that the appeal is frivolous and without merit. The brief meets the requirements of *Anders v. California*, 386 U.S. 738, 744 (1967), by presenting a professional evaluation of the record demonstrating why there are no arguable grounds to be

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<sup>1</sup> The other conviction, also for aggravated robbery, was affirmed by this Court. *See McDonald v. State*, No. 03-09-00532-CR, 2010 Tex. App. LEXIS 8695 (Tex. App.—Austin, Oct. 28, 2010, no pet. h.) (mem. op., not designated for publication).

advanced. *See also Penson v. Ohio*, 488 U.S. 75 (1988); *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. 1978); *Currie v. State*, 516 S.W.2d 684 (Tex. Crim. App. 1974); *Jackson v. State*, 485 S.W.2d 553 (Tex. Crim. App. 1972); *Gainous v. State*, 436 S.W.2d 137 (Tex. Crim. App. 1969). Appellant received a copy of counsel's brief and was advised of his right to examine the appellate record and to file a pro se brief. *See Anders*, 386 U.S. at 744.<sup>2</sup>

On November 1, 2010, a retained attorney filed an appearance in this cause and moved for an extension of time to file a brief on appellant's behalf. The motion was granted. This attorney has now informed the Court that he will not be filing a brief.

The Court has received four pro se documents from appellant complaining of his conviction in this cause: a "complaint for appellate review" received February 25, 2010; a "motion for inquiry into validity of verdict or indictment" received June 1, 2010; a "complaint for appellate review" received July 2, 2010; and a "grievance for appellate review" received August 5, 2010.<sup>3</sup> Although these documents were received before appointed counsel filed his *Anders* brief, we will consider them as appellant's pro se responses to that brief. They will be deemed filed as of the dates received.

We have reviewed the record and find no reversible error. *See Garner v. State*, 300 S.W.3d 763, 766 (Tex. Crim. App. 2009); *Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005). We agree with appointed counsel that the appeal is frivolous. The issues raised

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<sup>2</sup> On October 4, 2010, the Court received a copy of a pro se letter to the district court coordinator complaining of alleged errors in the appellate record. This will be deemed a motion to supplement and correct the record, filed as of the date received. The motion is overruled.

<sup>3</sup> The Court has also received copies of pro se motions, objections, and correspondence filed with or directed to the trial court and appointed counsel.

in appellant's pro se responses to counsel's *Anders* brief have no arguable merit. *See Garner*, 300 S.W.3d at 767; *Bledsoe*, 178 S.W.3d at 827. Appointed counsel's motion to withdraw is granted.

The judgment of conviction is affirmed.

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J. Woodfin Jones, Chief Justice

Before Chief Justice Jones, Justices Puryear and Pemberton

Affirmed

Filed: January 19, 2011

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