

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-14-00528-CR

James Alan Weatherford, Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF WILLIAMSON COUNTY, 368TH JUDICIAL DISTRICT
NO. 12-0465-K277, HONORABLE RICK J. KENNON, JUDGE PRESIDING**

MEMORANDUM OPINION

This is an appeal pursuant to *Anders v. California*.¹ In two causes consolidated for trial, appellant James Alan Weatherford pleaded guilty to numerous offenses related to child pornography. In trial court cause number 12-0465-K277, the subject of this appeal, Weatherford pleaded guilty to 24 counts of the offense of possession of child pornography.² The district court accepted the guilty pleas but withheld its finding of guilt and reset the causes for sentencing.

¹ 386 U.S. 738 (1967).

² In trial court cause number 14-0874-K368, Weatherford further pleaded guilty to three counts of the offense of promotion of child pornography and an additional 22 counts of the offense of possession of child pornography. Weatherford has also appealed his convictions in that cause, which has been docketed separately in this Court under appellate court cause number 03-14-00527-CR and remains pending at this time. We are considering that appeal separately because Weatherford's counsel has not filed an *Anders* brief in that cause and is instead asserting a claim of ineffective assistance of counsel relating to Weatherford's convictions for the offense of promotion of child pornography.

At the sentencing hearing, the district court heard evidence relating to the offenses. This evidence included the testimony of Sergeant Ross Behrens of the Texas Attorney General's Office. Behrens testified that during his investigation of Weatherford, he discovered between 120 and 130 images and videos of child pornography that had been downloaded from Weatherford's internet-protocol (IP) address. Additionally, Sergeant Steven Reid, also of the Texas Attorney General's Office, testified that he found over 25,000 images of child pornography on various hard drives, CDs, and DVDs that had been seized from Weatherford's home. After considering this and other evidence, the district court found Weatherford guilty and sentenced him to five years' imprisonment for each of the 24 possession counts, with the sentences to run concurrent with Weatherford's sentences in trial court cause number 14-0874-K368.³ The district court rendered a separate judgment of conviction for each of the 24 counts. This appeal followed.

Weatherford's court-appointed counsel has 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* by presenting a professional evaluation of the record demonstrating why there are no arguable grounds to be advanced.⁴ Counsel has certified to the Court that he has provided a copy of the motion and brief to Weatherford, advised Weatherford of his right to examine the appellate record and file a pro se response, and supplied Weatherford with a form motion for

³ In that cause, the district court sentenced Weatherford to 20 years' imprisonment for each of the three counts involving the offense of promotion of child pornography, with the sentences to run consecutively, and five years' imprisonment for each of the additional 22 counts involving the offense of possession of child pornography.

⁴ See 386 U.S. at 744-45; 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).

pro se access to the appellate record.⁵ In response, Weatherford has filed a pro se brief in which he asserts that trial counsel was ineffective.

We have reviewed the record, counsel's brief, and the pro se brief. We agree with counsel that the appeal in this cause is frivolous and without merit. We find nothing in the record that might arguably support the appeal. Counsel's motion to withdraw is granted.

The judgments of conviction are affirmed.

Bob Pemberton, Justice

Before Chief Justice Rose, Justices Pemberton and Field

Affirmed

Filed: August 28, 2015

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⁵ See *Kelly v. State*, 436 S.W.3d 313, 319-20 (Tex. Crim. App. 2014).