



NUMBER 13-18-00577-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

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SAMUEL LEE NORRIS,

Appellant,

v.

THE STATE OF TEXAS,

Appellee.

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On appeal from the 85th District Court  
of Brazos County, Texas.

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## MEMORANDUM OPINION

**Before Chief Justice Contreras and Justices Benavides and Longoria  
Memorandum Opinion by Justice Longoria**

In March of 2017, appellant Samuel Lee Norris pleaded guilty to the offense of aggravated assault with a deadly weapon, a second-degree felony. See TEX. PENAL CODE ANN. § 22.02(a)(2). The trial court deferred adjudication of Norris's guilt and placed him on community supervision for six years. In July of 2017, the State moved to adjudicate

Norris's guilt, alleging that Norris violated twenty of the conditions of his community supervision. In July of 2018, the trial court held a hearing on the State's motion to adjudicate. Norris admitted to violating eight of the conditions of his community supervision. The trial court sentenced Norris to twelve years' imprisonment in the Institutional Division of the Texas Department of Criminal Justice, which is within the statutory punishment range for a second-degree felony. See *id.* § 12.33(a). Norris's counsel has filed an *Anders* brief. See *Anders v. California*, 386 U.S. 738, 744 (1967). We affirm.

### I. *ANDERS* BRIEF<sup>1</sup>

Norris's appellate counsel has filed a motion to withdraw and a brief in support in which he states that he has diligently reviewed the entire record and has found no non-frivolous issues. See *id.* Counsel's brief meets the requirements of *Anders* as it presents a thorough, professional evaluation of the record showing why there are no arguable grounds for advancing an appeal. See *In re Schulman*, 252 S.W.3d 403, 407 n.9 (Tex. Crim. App. 2008) (orig. proceeding) ("In Texas, an *Anders* brief need not specifically advance 'arguable' points of error if counsel finds none, but it must provide record references to the facts and procedural history and set out pertinent legal authorities."); *Stafford v. State*, 813 S.W.2d 503, 510 n.3 (Tex. Crim. App. 1991) (en banc).

In compliance with *High v. State*, 573 S.W.2d 807, 813 (Tex. Crim. App. [Panel Op.] 1978) and *Kelly v. State*, 436 S.W.3d 313, 319–22 (Tex. Crim. App. 2014), Norris's counsel carefully discussed why, under controlling authority, there is no reversible error

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<sup>1</sup> This case is before this Court on transfer from the Tenth Court of Appeals in Waco pursuant to a docket-equalization order issued by the Supreme Court of Texas. See TEX. GOV'T CODE ANN. § 73.001.

in the trial court's judgment. Norris's counsel also informed this Court that he has: (1) notified Norris that he has filed an *Anders* brief and a motion to withdraw, and that he provided Norris with copies of both; (2) informed Norris of his right to file a pro se response and of his right to review the record preparatory to filing that response; (3) informed Norris of his pro se right to seek discretionary review if we conclude that the appeal is frivolous; and (4) provided Norris with a form motion for pro se access to the appellate record, lacking only Norris's signature. See *Anders*, 386 U.S. at 744; *Kelly*, 436 S.W.3d at 319–20; *Stafford*, 813 S.W.2d at 510 n.3; see also *In re Schulman*, 252 S.W.3d at 409 n.23. Norris filed a pro se response, arguing that: (1) his request for new counsel was wrongfully denied; (2) his trial counsel was ineffective; and (3) exculpatory evidence was wrongfully “suppressed.” Furthermore, Norris listed numerous “contradictory/false facts or statements to be clarified.”

## II. INDEPENDENT REVIEW

Upon receiving an *Anders* brief, we must conduct a full examination of all the proceedings to determine whether the appeal is wholly frivolous. See *Penson v. Ohio*, 488 U.S. 75, 80 (1988); *Stafford*, 813 S.W.2d at 511. If a pro se response is filed after an *Anders* brief has been submitted on behalf of the appellant, an appellate court has two choices: we may determine the appeal is wholly frivolous and issue an opinion after reviewing the record and finding no reversible error, or alternatively, if we determine that arguable grounds for appeal exist, we must remand for the appointment of new counsel to brief those issues. See *Bledsoe v. State*, 178 S.W.3d 824, 826–827 (Tex. Crim. App. 2005); see also *Moreno v. State*, No. 08-12-00028-CR, 2014 WL 1274134, at \*1 (Tex. App.—El Paso Mar. 28, 2014, no pet.) (mem. op., not designated for publication).

We have reviewed the record, counsel's brief, and Norris's response, and we have found no reversible error. See *Bledsoe*, 178 S.W.3d at 827–28 (“Due to the nature of *Anders* briefs, by indicating in the opinion it considered the issues raised in the brief and reviewed the record for reversible error but found none, the court of appeals met the requirements of Texas Rule of Appellate Procedure 47.1.”); *Stafford*, 813 S.W.2d at 509.

### III. MOTION TO WITHDRAW

In accordance with *Anders*, Norris's appellate counsel has filed a motion to withdraw. See *Anders*, 386 U.S. at 744: see also *In re Schulman*, 252 S.W.3d at 408 n.17 (citing *Jeffery v. State*, 903 S.W.2d 776, 779–80 (Tex. App.—Dallas 1995, no pet.) (“If an attorney believes the appeal is frivolous, he must withdraw from representing the appellant. To withdraw from representation, the appointed attorney must file a motion to withdraw accompanied by a brief showing the appellate court that the appeal is frivolous.”) (citations omitted)). We grant counsel's motion to withdraw. Within five days of the date of this opinion, counsel is ordered to send a copy of the opinion and judgment to Norris and to advise him of his right to file a petition for discretionary review.<sup>2</sup> See TEX. R. APP. P. 48.4; see also *In re Schulman*, 252 S.W.3d at 412 n.35; *Ex parte Owens*, 206 S.W.3d 670, 673 (Tex. Crim. App. 2006).

### IV. CONCLUSION

We affirm the trial court's judgment.

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<sup>2</sup> No substitute counsel will be appointed. Should appellant wish to seek further review of this case by the Texas Court of Criminal Appeals, he must either retain an attorney to file a petition for discretionary review or file a pro se petition for discretionary review. Any petition for discretionary review must be filed within thirty days from the date of either this opinion or the last timely motion for rehearing or timely motion for en banc reconsideration that was overruled by this Court. See TEX. R. APP. P. 68.2. Any petition for discretionary review must be filed with the clerk of the Court of Criminal Appeals, see *id.* R. 68.3, and should comply with the requirements of Texas Rule of Appellate Procedure 68.4. See *id.* R. 68.4.

NORA L. LONGORIA  
Justice

Do not publish.  
TEX. R. APP. P. 47.2(b).

Delivered and filed the  
8th day of August, 2019.