

NO. 12-08-00042-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

TIMOTHY RAY LYDIA,
APPELLANT

§ *APPEAL FROM THE 7TH*

V.

§ *JUDICIAL DISTRICT COURT OF*

THE STATE OF TEXAS,
APPELLEE

§ *SMITH COUNTY, TEXAS*

MEMORANDUM OPINION
PER CURIAM

Timothy Ray Lydia appeals his conviction for aggravated robbery. Appellant's counsel filed a brief in compliance with *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967), and *Gainous v. State*, 436 S.W.2d 137 (Tex. Crim. App. 1969). We affirm.

BACKGROUND

Appellant pleaded guilty to aggravated robbery. Appellant also pleaded true to an enhancement paragraph, which related to a previous felony committed by Appellant. There was no agreement between Appellant and the State as to the appropriate punishment for the charged offense. The trial court found Appellant guilty and assessed Appellant's punishment at fifty years of imprisonment and a \$5,000 fine. This appeal followed.

ANALYSIS PURSUANT TO *ANDERS V. CALIFORNIA*

Appellant's counsel filed a brief in compliance with *Anders v. California* and *Gainous v. State*. The brief shows that Appellant's counsel diligently reviewed the appellate record and considered the applicable law and is of the opinion that the record reflects no reversible error and that there is no error upon which an appeal can be predicated. In compliance with *Anders*, *Gainous*, and

High v. State, 573 S.W.2d 807 (Tex. Crim. App. 1978), Appellant’s counsel’s brief presents a chronological summation of the procedural history of the case and further states that Appellant’s counsel is unable to raise any arguable issues for appeal.¹ We have likewise examined the record for reversible error and have found none. See *Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005).

CONCLUSION

As required by *Stafford v. State*, 813 S.W.2d 503 (Tex. Crim. App. 1991), Appellant’s counsel has moved for leave to withdraw in this case. We carried the motion for consideration with the merits. Having done so and finding no reversible error, Appellant’s counsel’s motion for leave to withdraw is hereby granted and the trial court’s judgment is *affirmed*.

Opinion delivered February 4, 2009.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

(DO NOT PUBLISH)

¹ Counsel for Appellant certified in his brief that he provided Appellant with a copy of the brief. Appellant was given time to file his own brief in this cause. The time for filing such a brief has expired and we have received no pro se brief.



COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT OF TEXAS
JUDGMENT

FEBRUARY 4, 2009

NO. 12-08-00042-CR

TIMOTHY RAY LYDIA,
Appellant
V.
THE STATE OF TEXAS,
Appellee

Appeal from the 7th Judicial District Court
of Smith County, Texas. (Tr.Ct.No. 007-1167-07)

THIS CAUSE came to be heard on the appellate record and briefs filed herein, and the same being considered, it is the opinion of this court that there was no error in the judgment.

It is therefore ORDERED, ADJUDGED, and DECREED that the judgment of the court below **BE IN ALL THINGS AFFIRMED**, Appellant's counsel's motion for leave to withdraw is hereby **GRANTED**; and that this decision be certified to the court below for observance.

By per curiam opinon.
Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

THE STATE OF TEXAS M A N D A T E

TO THE 7TH JUDICIAL DISTRICT COURT OF SMITH COUNTY, GREETINGS:

Before our Court of Appeals for the 12th Court of Appeals District of Texas, on the 4th day of February, 2009, the cause upon appeal to revise or reverse your judgment between

TIMOTHY RAY LYDIA, Appellant

NO. 12-08-00042-CR; Trial Court No. 007-1167-07

By *per curiam* opinion.

THE STATE OF TEXAS, Appellee

was determined; and therein our said Court made its order in these words:

“THIS CAUSE came to be heard on the appellate record and briefs filed herein, and the same being inspected, it is the opinion of this court that there was no error in the judgment.

It is therefore ORDERED, ADJUDGED, and DECREED that the judgment of the court below **BE IN ALL THINGS AFFIRMED**, Appellant’s counsel’s motion for leave to withdraw is hereby **GRANTED**; and that this decision be certified to the court below for observance.”

WHEREAS, WE COMMAND YOU to observe the order of our said Court of Appeals for the Twelfth Court of Appeals District of Texas in this behalf, and in all things have it duly recognized, obeyed, and executed.

WITNESS, THE HONORABLE JAMES T. WORTHEN, Chief Justice of our Court of Appeals for the Twelfth Court of Appeals District, with the Seal thereof affixed, at the City of Tyler, this the _____ day of _____, 200____.



CATHY S. LUSK, CLERK

By: _____
Deputy Clerk