

NO. 12-10-00362-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

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| <i>AUGUSTINE AGHAEZE,</i> <i>APPELLANT</i> | § | <i>APPEAL FROM THE 7TH</i> |
| <i>V.</i> | § | <i>JUDICIAL DISTRICT COURT</i> |
| <i>THE STATE OF TEXAS,</i> <i>APPELLEE</i> | § | <i>SMITH COUNTY, TEXAS</i> |

MEMORANDUM OPINION
PER CURIAM

Augustine Aghaeze appeals his conviction for aggravated robbery following the revocation of his deferred adjudication community supervision, for which he was sentenced to imprisonment for twelve years. 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 dismiss the appeal.

BACKGROUND

Appellant was charged by indictment with aggravated robbery and pleaded “guilty.” The trial court deferred finding Appellant “guilty” and placed him on community supervision for six years.

Subsequently, the State filed a motion to revoke Appellant’s community supervision and proceed to final adjudication alleging that Appellant had violated certain terms and conditions of his community supervision. A hearing was conducted on the State’s motion, at which Appellant pleaded “true” to all but one of the allegations in the State’s motion.¹ At the conclusion of the

¹ The record indicates that the State abandoned one of its allegations. Appellant pleaded “true” to the

hearing, the trial court found that Appellant had violated the terms and conditions of his community supervision as alleged in the State's motion. Thereafter, the trial court revoked Appellant's community supervision, adjudicated him "guilty" of aggravated robbery, and sentenced him to imprisonment for twelve years. 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*. Appellant's counsel states that he has diligently reviewed the appellate record 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. He further relates that he is well acquainted with the facts in this case. In compliance with *Anders*, *Gainous*, and *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. [Panel Op.] 1978), Appellant'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.² We have likewise reviewed the record for reversible error and have found none.

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. See also *In re Schulman*, 252 S.W.3d 403, 407 (Tex. Crim. App. 2008) (orig. proceeding). 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 appeal is *dismissed*.

As a result of our disposition of this case, Appellant's counsel has a duty to, within five days of the date of this opinion, send a copy of the opinion and judgment to Appellant and advise him of his right to file a petition for discretionary review. See TEX. R. APP. P. 48.4; *In re Schulman*, 252 S.W.3d at 411 n.35. Should Appellant wish to seek review of this case by the Texas Court of Criminal Appeals, he must either retain an attorney to file a petition for discretionary review on his behalf or he must file a petition for discretionary review pro se. Any

remaining allegations.

² Counsel for Appellant states in his motion to withdraw that he provided Appellant with a copy of this brief. Appellant was given time to file his own brief in this cause. The time for filing such a brief has expired and no pro se brief in compliance with the Texas Rules of Appellate Procedure has been filed.

petition for discretionary review must be filed within thirty days from the date of either this opinion or the last timely motion for rehearing that was overruled by this court. *See* TEX. R. APP. P. 68.2. Any petition for discretionary review must be filed with this court, after which it will be forwarded to the Texas Court of Criminal Appeals along with the rest of the filings in this case.³ *See* TEX. R. APP. P. 68.3. Any petition for discretionary review should comply with the requirements of Texas Rule of Appellate Procedure 68.4. *See In re Schulman*, 252 S.W.3d at 408 n.22.

Opinion delivered September 7, 2011.

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

(DO NOT PUBLISH)

³ By rule, petitions should be filed directly with the Texas Court of Criminal Appeals. *See* TEX. R. APP. P. 68.3(a) (effective September 1, 2011).