

**NOS. 12-12-00039-CR
12-12-00040-CR**

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***CHARLES EVERETT WINTTERS,
APPELLANT***

§

APPEALS FROM THE 7TH

V.

§

JUDICIAL DISTRICT COURT

***THE STATE OF TEXAS,
APPELLEE***

§

SMITH COUNTY, TEXAS

***MEMORANDUM OPINION
PER CURIAM***

Charles Everett Wintters appeals his convictions for possession with intent to deliver methamphetamine and delivery of methamphetamine. Appellant pleaded guilty and the trial court assessed punishment at forty years of imprisonment in each case, the sentences to run concurrently. Appellant's counsel filed a motion to withdraw and a brief in support of that motion 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 modify and affirm as modified.

ANALYSIS PURSUANT TO *ANDERS V. CALIFORNIA*

Appellant's counsel filed a brief in compliance with *Anders* and *Gainous*, stating that he is well acquainted with the facts in these cases and has diligently reviewed the appellate records. In compliance with *Anders*, *Gainous*, and *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. 1978), Appellant's brief presents a chronological summation of the procedural history of the cases, and further states that Appellant's counsel is of the opinion that the records reflect no reversible error

and counsel is unable to raise any arguable issues for appeal.¹ We have considered counsel's brief and conducted our own independent review of the records. We have found no reversible error. See *Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005).

Although not an arguable issue, counsel has noted that the judgments in each case reflect pleas and findings of "true" to a "Jurisdictional Paragraph." The record shows there was no jurisdictional paragraph in the indictment. We modify the judgments in each case to delete the pleas and findings of "true" to a "Jurisdictional Paragraph." See *Bigley v. State*, 865 S.W.2d 26, 27-28 (Tex. Crim. App. 1993).

CONCLUSION

As required, Appellant's counsel has moved for leave to withdraw. See *In re Schulman*, 252 S.W.3d 403, 407 (Tex. Crim. App. 2008) (orig. proceeding); *Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991). We are in agreement with Appellant's counsel that the appeals are wholly frivolous. Accordingly, his motion to withdraw is hereby **granted**, and the trial court's judgments are **affirmed as modified**. See *In re Schulman*, 252 S.W.3d at 408-09.

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 further review of these cases by the Texas Court of Criminal Appeals, he must either retain an attorney to file a petition for discretionary review or he must file a pro se petition for discretionary review. Any petition for discretionary review must be filed within thirty days from the date of this opinion or the date the last timely filed motion for rehearing is overruled by this court. See TEX. R. APP. P. 68.2. Any petition for discretionary review must be filed with the clerk for the Texas Court of Criminal Appeals along with the rest of the filings in the case. See TEX. R. APP. P. 68.3(a). Any petition for discretionary review should comply with the requirements of Rule 68.4 of the Texas Rules of Appellate Procedure. See TEX. R. APP. P. 68.4; *In re Schulman*, 252 S.W.3d at 408 n.22.

Opinion delivered March 13, 2013.

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

(DO NOT PUBLISH)

¹ Counsel for Appellant has certified 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 we have not received a pro se brief.



**COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT OF TEXAS
JUDGMENT**

MARCH 13, 2013

**NOS. 12-12-00039-CR
12-12-00040-CR**

CHARLES EVERETT WINTTERS,
Appellant
V.
THE STATE OF TEXAS,
Appellee

Appeals from the 7th Judicial District Court
of Smith County, Texas. (Tr.Ct.Nos. 007-0333-11; 007-0334-11)

THESE CAUSES 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 were no reversible errors in the judgments.

It is ORDERED, ADJUDGED and DECREED that the pleas and findings of true to a Jurisdictional Paragraph are **deleted**.

It is further ORDERED, ADJUDGED and DECREED that Appellant's counsel's motion to withdraw is **granted**, the judgments of the court below, as **modified**, are **affirmed**, and that

this decision be certified to the court below for observance.

By *per curiam* opinion.

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