

**NO. 12-12-00239-CR**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT**

**TYLER, TEXAS**

<i>RANDAL LOCKHART, APPELLANT</i>	§	<i>APPEALS FROM THE 217TH</i>
<i>V.</i>	§	<i>JUDICIAL DISTRICT COURT</i>
<i>THE STATE OF TEXAS, APPELLEE</i>	§	<i>ANGELINA COUNTY, TEXAS</i>

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***MEMORANDUM OPINION  
PER CURIAM***

Randal Lockhart appeals his conviction for tampering with evidence. 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). Appellant filed a pro se brief. We affirm.

**BACKGROUND**

Appellant was charged by indictment with the offense of tampering with evidence, a third degree felony.<sup>1</sup> The information also included a felony enhancement paragraph.<sup>2</sup> Appellant entered a plea of guilty to the offense charged in the indictment. Appellant and his counsel signed a document entitled “Written Plea Admonishments—Waivers—Stipulations” in which Appellant swore and judicially confessed that he committed each and every element of the offense alleged in the

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<sup>1</sup> See TEX. PENAL CODE ANN. § 37.09(a)(1), (c) (West Supp. 2012).

<sup>2</sup> If it is shown on the trial of a third degree felony that the defendant has previously been finally convicted of a felony other than a state jail felony punishable under Section 12.35(a) of the Texas Penal Code, on conviction the defendant shall be punished for a second degree felony. See TEX. PENAL CODE ANN. § 12.42(a) (West Supp. 2012).

indictment. He also pleaded “true” to the enhancement paragraph. The trial court accepted Appellant’s plea of guilty.

After a punishment hearing, the trial court adjudged Appellant guilty of tampering with evidence, found the enhancement paragraph to be “true,” and assessed his punishment at five years of imprisonment.<sup>3</sup> This appeal followed.

#### ANALYSIS PURSUANT TO *ANDERS V. CALIFORNIA*

Appellant’s counsel filed a brief in compliance with *Anders* and *Gainous*, stating 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. From our review of counsel’s brief, it is apparent that counsel is well acquainted with the facts in this case. In compliance with *Anders*, *Gainous*, and *High v. State*, 573 S.W.2d 807, 812 (Tex. Crim. App. 1978), counsel’s brief presents a chronological summation of the procedural history of the case, and further states that counsel is unable to raise any arguable issues for appeal.

In Appellant’s pro se brief, he argues that the prosecutor wanted to make an example of him as a confidential informer, that the prosecutor refused to consider that he entered a rehabilitation clinic after he was charged with the above offense, that the prosecutor would not accept a letter or letters on his behalf from other police departments, and that he did not work for various police departments because he wanted to “get away” with crimes as stated by the trial court at sentencing. Finally, Appellant argues that his trial counsel was his “worst enemy,” contending that his counsel rendered ineffective assistance of counsel. We have reviewed 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, 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 appeal is wholly

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<sup>3</sup> An individual adjudged guilty of a second degree felony shall be punished by imprisonment for any term of not more than twenty years or less than two years and, in addition, a fine not to exceed \$10,000. TEX. PENAL CODE ANN. § 12.33 (West 2011).

frivolous. Accordingly, his motion for leave to withdraw is hereby **granted**, and the trial court's judgment is **affirmed**. See TEX. R. APP. P. 43.2.

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 this case 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. See ***In re Schulman***, 252 S.W.3d at 408 n.22. 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 that was overruled by this court. See TEX. R. APP. P. 68.2. Any petition for discretionary review must be filed with the Texas Court of Criminal Appeals. See TEX. R. APP. P. 68.3. 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 May 31, 2013.

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

(DO NOT PUBLISH)



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

**MAY 31, 2013**

**NO. 12-12-00239-CR**

**RANDAL LOCKHART,**

Appellant

V.

**THE STATE OF TEXAS,**

Appellee

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Appeal from the 217th Judicial District Court  
of Angelina County, Texas. (Tr.Ct.No. 2011-0094)

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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 Appellant's counsel's motion to withdraw is **granted**, the judgment of the court below **be in all things 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.*