



COURT OF APPEALS  
EIGHTH DISTRICT OF TEXAS  
EL PASO, TEXAS

PATRICK DELACRUZ MORENO,	§	No. 08-12-00028-CR
	§	
Appellant,	§	Appeal from the
	§	
v.	§	112th Judicial District Court
	§	
THE STATE OF TEXAS,	§	of Pecos County, Texas
	§	
Appellee.	§	(TC# 3156)
	§	

**MEMORANDUM OPINION**

Patrick Delacruz Moreno appeals his conviction of manslaughter. For the reasons that follow, we affirm.

**FACTUAL SUMMARY**

Moreno was indicted for murder and entered a plea of not guilty before a jury. The indictment was enhanced with a prior conviction for burglary of habitation. The jury found Moreno guilty of manslaughter, a lesser included offense of murder. The jury found the enhancement paragraph of the indictment true, which raised the punishment from a second degree to a first degree felony. TEX.PENAL CODE ANN. § 12.42(b)(West Supp. 2013). The jury assessed Moreno's punishment to imprisonment for a term of ninety-nine years.

## **ANDERS BRIEF**

Moreno's court-appointed appellate counsel has filed an *Anders* brief. *See Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493, *reh. denied*, 388 U.S. 924, 87 S.Ct. 2094, 18 L.Ed.2d 1377 (1967); *High v. State*, 573 S.W.2d 807, 813 (Tex.Crim.App. [panel op.] 1978)(adopting the *Anders* procedure); *see also Stafford v. State*, 813 S.W.2d 503, 509-11 (Tex.Crim.App. 1991). In *Anders*, the United States Supreme Court recognized that counsel, though appointed to represent the appellant in an appeal from a criminal conviction, had no duty to pursue a frivolous matter on appeal. *Anders*, 386 U.S. at 744, 87 S.Ct. at 1400. Counsel was thus permitted to withdraw after informing the court of his conclusion and the effort made in arriving at that conclusion. *Id.*

In this case, Moreno's appellate counsel has concluded that after a thorough review of the record, Moreno's appeal is without merit. Counsel's brief meets the requirements of *Anders* by presenting a professional evaluation of the record demonstrating why there are no arguable grounds to be advanced. *See Anders*, 386 U.S. at 744, 87 S.Ct. at 1400.

In accordance with *Anders*'s requirements, Moreno's counsel has moved to withdraw. Counsel states in his motion that he delivered copies of the motion and *Anders* brief to Moreno and advised Moreno of his right to examine the appellate record and file a *pro se* brief. Moreno has filed a *pro se* brief, amended brief, and a reply brief.

Moreno's *pro se* briefs assert three issues for our review: (1) his Due Process rights under the Fifth and Fourteenth Amendments were violated; (2) Due Process violation by the use of perjured or false testimony; and (3) the State's investigation was impermissibly suggestive creating false testimony and suppressed exculpatory evidence. Woven throughout his arguments

is the allegation of ineffective assistance of counsel which was not presented as a separate issue.

### **INDEPENDENT REVIEW**

After counsel files a proper *Anders* brief, the court of appeals must conduct its own review of the record to ascertain if there are any arguable grounds for the appeal. *Stafford*, 813 S.W.2d at 511. If a later *pro se* brief is filed after an *Anders* brief has been submitted on behalf of the Appellant, the Court of Criminal Appeals has in *Bledsoe* stated an appellate court has two choices. *Bledsoe v. State*, 178 S.W.3d 824, 826 (Tex.Crim.App. 2005). We may determine the appeal is wholly frivolous and issue an opinion after reviewing the record and finding no reversible error. *Id.* at 826-827. Alternatively, if we determine that arguable grounds for appeal exist, we must remand for the appointment of new counsel to brief those issues. *Id.* at 827.

We have thoroughly reviewed the record, counsel's brief, and Moreno's briefs in this case, as well as correspondence related to the *pro se* brief and agree with counsel's professional assessment that the appeal is frivolous and without merit. Further, we find nothing in the record that might arguably support the appeal. A discussion of the arguments propounded in the *pro se* briefs would add nothing to the jurisprudence of the State.

### **CONCLUSION**

We affirm the trial court's judgment.

March 28, 2014

YVONNE T. RODRIGUEZ, Justice

Before McClure, C.J., Rivera, and Rodriguez, JJ.

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