



COURT OF APPEALS  
EIGHTH DISTRICT OF TEXAS  
EL PASO, TEXAS

DALTON DEWAYNE HUNT,	§	No. 08-20-00214-CR
Appellant,	§	Appeal from the
v.	§	196th District Court
THE STATE OF TEXAS,	§	of Hunt County, Texas
Appellee.	§	(TC# 30983)
	§	

**MEMORANDUM OPINION**

Appellant, Dalton Dewayne Hunt, appeals from a judgment revoking his community supervision for possession of a controlled substance Penalty Group 1, greater than one gram but less than four grams, a third-degree felony.<sup>1</sup> See TEX.HEALTH & SAFETY CODE ANN. § 481.115(c). Counsel for Appellant filed a brief in compliance with *Anders v. California*, 386 U.S. 738, 744 (1967) and *Gainous v. State*, 436 S.W.2d 137 (Tex.Crim.App. 1969). Appellant timely filed a notice of appeal. We affirm.

**FACTUAL SUMMARY**

In 2015, the State indicted Appellant for possession of a controlled substance in Penalty

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<sup>1</sup> This case was transferred from the Fifth Court of Appeals of Texas, our sister court in Dallas. We decide it in accordance with the precedent of that court. TEX.R.APP.P. 41.3.

Group 1, methamphetamine, of more than one gram but less than four grams. In 2016, pursuant to the plea bargain agreement, the trial court deferred making an adjudication of guilt and placed Appellant on deferred adjudication for five years with drug terms. The trial court assessed a fine of \$1,000; attorney fees of \$1,680; court costs of \$285; lab fees of \$140; crimestoppers fee of \$50; and 50 hours of community service. The State later filed a motion to revoke alleging that Appellant violated multiple terms and conditions of the community supervision.<sup>2</sup> During the revocation hearing, Appellant entered a plea of not true on all violations in the State's motion. The trial court found the allegations true, granted the State's motion, and adjudicated Appellant guilty for the offense of possession of a controlled substance, Penalty Group 1, in an amount greater than or equal to one gram but less than four grams, a third-degree felony. The trial court sentenced Appellant to ten years in prison with a credit of 635 days served.<sup>3</sup>

### **FRIVOLOUS APPEAL**

Appellant's court-appointed counsel filed a motion to withdraw, along with a brief stating that no meritorious issues of appeal exist that could conceivably support reversal of the trial court's judgment. Counsel's brief presents a professional evaluation of the record demonstrating why, in effect, there are no arguable grounds to be advanced. *See Anders*, 386 U.S. at 744; *In re Schulman*, 252 S.W.3d 403, 406 n.9 (Tex.Crim.App. 2008) ("In Texas, an *Anders* brief need not specifically advance 'arguable' points of error if counsel finds none, but it must provide record references to the facts and procedural history and set out pertinent legal authorities."); *High v. State*, 573 S.W.2d 807 (Tex.Crim.App. 1978). Additionally, counsel notified the Court in writing that he delivered a

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<sup>2</sup> Paragraph 1 alleged a delivery of a controlled substance, in the motion to revoke, was abandoned. The trial court proceeded with the allegations in paragraphs 2-7 and found them to be true.

<sup>3</sup> The trial court sentenced Appellant in two cases (ten years for possession of a controlled substance in Penalty Group 1, greater than one gram but less than four grams; and fifteen years for aggravated assault causing serious bodily injury) with both punishments to run concurrently.

copy of the brief and motion to withdraw to Appellant, and he has advised Appellant of his right to review the record and file a *pro se* brief. *Kelly v. State*, 436 S.W.3d 313, 318–20 (Tex.Crim.App. 2014) (setting forth duties of counsel). In addition, Counsel also stated he provided Appellant with a copy of the clerk’s record and reporter’s record in compliance with *Kelly*. *Id.* Appellant has not filed a *pro se* brief.

After carefully reviewing the record and counsel’s brief, we conclude that the appeal is wholly frivolous and without merit. Further, we find nothing in the record that might arguably support the appeal.

### **MOTION TO WITHDRAW**

Finding Appellant’s counsel has substantially complied with the requirements of *Anders* and *Kelly*, we grant counsel’s motion to withdraw. *See Anders*, 386 U.S. at 744; *Kelly*, 436 S.W.3d at 318–20. However, we note counsel’s motion to withdraw fails to mention whether he informed Hunt of his right to seek discretionary review in the Texas Court of Criminal Appeals if this Court finds that the appeal is frivolous. *See Kelly*, 436 S.W.3d at 318–20; *Ex Parte Owens*, 206 S.W.3d 670, 674 n.28 (Tex.Crim.App. 2006); *Meza v. State*, 206 S.W.3d 684, 689 n.23 (Tex.Crim.App. 2006).

Therefore, within five days of the date of this Court’s opinion, counsel is ordered to send a copy of this opinion and this Court’s judgment to Hunt and to advise him of his right to file a petition for discretionary review. *See TEX.R.APP.P.* 48.4; *see also In re Schulman*, 252 S.W.3d at 411 n.35; *Owens*, 206 S.W.3d at 673.

No substitute counsel will be appointed by this Court. Should Hunt 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 must file a *pro se* petition for discretionary review. 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 is overruled by this Court. *See* TEX.R.APP.P. 68.2. Any petition for discretionary review must be filed in the Court of Criminal Appeals. *See* TEX.R.APP.P. 68.3. Any petition for discretionary review must comply with the requirements of Rule 68.4 of the Texas Rules of Appellate Procedure. *See* TEX.R.APP.P. 68.4.

### **CONCLUSION**

We affirm the trial court's judgment.

July 26, 2021

YVONNE T. RODRIGUEZ, Chief Justice

Before Rodriguez, C.J., Palafox, and Alley, JJ.

(Do Not Publish)