

Opinion filed August 1, 2013



In The

Eleventh Court of Appeals

No. 11-11-00287-CR

GILBERTO HERNANDEZ, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 33rd District Court

Burnet County, Texas

Trial Court Cause No. 38870

MEMORANDUM OPINION

The jury convicted Gilberto Hernandez of eight offenses: aggravated sexual assault—two counts, burglary of a habitation with intent to commit another felony, aggravated robbery—two counts, injury to the elderly, and aggravated assault—two counts. The jury sentenced him to confinement in the Institutional Division of the Texas Department of Criminal Justice for each offense with the terms spanning

from sixty to ninety-nine years on six of the offenses (Counts Three through Eight) with the sentences to run concurrently. The jury sentenced him to a term of confinement for ninety-nine years on Count One and a term of confinement for life on Count Two. The court ordered that the sentences assessed for Counts One and Two are to be served consecutively. Lastly, the jury assessed a fine of \$10,000 on each offense. We dismiss the appeal.

Appellant's court-appointed counsel has filed a motion to withdraw in this appeal. The motion is supported by a brief in which counsel professionally and conscientiously examines the record and applicable law and states that he has concluded that the appeal is frivolous. Counsel has provided Appellant with a copy of the brief and advised Appellant of his right to review the record and file a response to counsel's brief. A response has not been filed.¹ Court-appointed counsel has complied with the requirements of *Anders v. California*, 386 U.S. 738 (1967); *In re Schulman*, 252 S.W.3d 403 (Tex. Crim. App. 2008); *Stafford v. State*, 813 S.W.2d 503 (Tex. Crim. App. 1991); *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. 1978); *Currie v. State*, 516 S.W.2d 684 (Tex. Crim. App. 1974); *Gainous v. State*, 436 S.W.2d 137 (Tex. Crim. App. 1969); and *Eaden v. State*, 161 S.W.3d 173 (Tex. App.—Eastland 2005, no pet.). Following the procedures outlined in *Anders* and *Schulman*, we have independently reviewed the record, and we agree that the appeal is without merit and should be dismissed. *Schulman*, 252 S.W.3d at 409.

We note that counsel has the responsibility to advise Appellant that he may file a petition for discretionary review with the clerk of the Texas Court of Criminal Appeals seeking review by that court. TEX. R. APP. P. 48.4 (“In criminal cases, the attorney representing the defendant on appeal shall, within five days

¹By letter, this Court granted Appellant thirty days in which to exercise his right to file a response to counsel's brief.

after the opinion is handed down, send his client a copy of the opinion and judgment, along with notification of the defendant's right to file a *pro se* petition for discretionary review under Rule 68.'"). Likewise, this court advises Appellant that he may file a petition for discretionary review pursuant to TEX. R. APP. P. 68.

The motion to withdraw is granted, and the appeal is dismissed.

PER CURIAM

August 1, 2013

Do not publish. *See* TEX. R. APP. P. 47.2(b).

Panel consists of: Wright, C.J.,
McCall, J., and Willson, J.