

Opinion filed August 17, 2017



In The
Eleventh Court of Appeals

No. 11-16-00342-CR

MICHAEL WAYNE HAYS, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 35th District Court
Brown County, Texas
Trial Court Cause No. CR24377**

MEMORANDUM OPINION

Appellant, Michael Wayne Hays, originally pleaded guilty to the second-degree felony offense of indecency with a child by sexual contact. Pursuant to the terms of the plea agreement, the trial court deferred a finding of guilt and placed Appellant on community supervision for ten years. The State subsequently filed a motion to proceed with an adjudication of Appellant's guilt. At a hearing on the State's motion, the trial court found two of the State's four allegations to be true,

revoked Appellant's community supervision, adjudicated him guilty of the charged offense, and assessed his punishment at confinement for fifteen years. We dismiss the appeal.

Appellant's court-appointed counsel has filed a motion to withdraw. The motion is supported by a brief in which counsel professionally and conscientiously examines the record and applicable law and states that she has concluded that the appeal is frivolous and without merit. Counsel has provided Appellant with a copy of the brief, a copy of the motion to withdraw, an explanatory letter, and a motion to access the clerk's record and the reporter's record. Counsel also advised Appellant of his right to review the record and file a response to counsel's brief. Appellant has not filed a response to counsel's brief.¹

Court-appointed counsel has complied with the requirements of *Anders v. California*, 386 U.S. 738 (1967); *Kelly v. State*, 436 S.W.3d 313 (Tex. Crim. App. 2014); *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. [Panel Op.] 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. See *Schulman*, 252 S.W.3d at 409. We note that proof of one violation of the terms and conditions of community supervision is sufficient to support revocation. *Smith v. State*, 286 S.W.3d 333, 342 (Tex. Crim. App. 2009). The record from the adjudication hearing shows that the State presented testimony

¹This court originally granted Appellant thirty days in which to exercise his right to file a response to counsel's brief. Subsequently, this court granted in part Appellant's motion for extension of time to file his response and extended the deadline by an additional thirty days.

about various violations by Appellant of the terms and conditions of his community supervision as alleged in the State's motion to adjudicate. Based upon our review of the record, we agree with counsel that no arguable grounds for appeal exist.

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 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 17, 2017

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

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