

Opinion filed November 22, 2017



In The

# Eleventh Court of Appeals

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No. 11-17-00172-CR

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**MARTIN SHAWN CARSWELL, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 266th District Court  
Erath County, Texas  
Trial Court Cause No. CR14590**

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## **MEMORANDUM OPINION**

Martin Shawn Carswell pleaded guilty to the offense of felony driving while intoxicated and true to an enhancement allegation. As instructed, the jury found Appellant guilty and found the enhancement allegation to be true. The jury assessed punishment at confinement for twenty years and a fine of \$2,000. 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 concludes that the appeal is frivolous. Counsel has provided Appellant with a copy of the brief and a copy of the motion to withdraw. Counsel also advised Appellant of his right to review the record and file a response to counsel’s brief. Counsel provided Appellant with a copy of the clerk’s record and the reporter’s record. Appellant filed a pro se response in which he states, “I’ve done wrong but 20 years is asinine punishment.” Appellant also states in his response that he does not “feel like [he] was properly represented in this case.”

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.). In addressing an *Anders* brief and pro se response, a court of appeals may only determine (1) that the appeal is wholly frivolous and issue an opinion explaining that it has reviewed the record and finds no reversible error or (2) that arguable grounds for appeal exist and remand the cause to the trial court so that new counsel may be appointed to brief the issues. *Schulman*, 252 S.W.3d at 409; *Bledsoe v. State*, 178 S.W.3d 824, 826–27 (Tex. Crim. App. 2005). 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 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

November 22, 2017

Do not publish.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

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