

Opinion filed April 18, 2019



In The
Eleventh Court of Appeals

No. 11-18-00113-CR

HARRY DWAIN NOVAK A/K/A TOMMY BROWNE, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 266th District Court
Erath County, Texas
Trial Court Cause No. CR13916**

MEMORANDUM OPINION

Appellant, Harry Dwain Novak a/k/a Tommy Browne, waived a jury and entered an open plea of guilty to the offense of felony driving while intoxicated. Appellant also pleaded true to a felony enhancement allegation, and the trial court ordered a presentence investigation report. The trial court convicted Appellant, found the enhancement allegation to be true, and assessed punishment at confinement for ten years and a fine of \$1,000. We affirm.

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 there are no arguable issues to raise in this appeal. Counsel has provided Appellant with a copy of the brief, the motion to withdraw, and a form motion for pro se access to the record. Subsequent to the filing of the brief, counsel sent a copy of the clerk's record and reporter's record to Appellant. Counsel advised Appellant of his right to review the record and file a response to counsel's brief. Counsel also advised Appellant of his right to file a petition for discretionary review in order to seek review by the Texas Court of Criminal Appeals. *See* TEX. R. APP. P. 68. 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); and *Stafford v. State*, 813 S.W.2d 503 (Tex. Crim. App. 1991).

Appellant subsequently filed a response to counsel's *Anders* brief. He also filed various motions regarding the record: a motion to supplement the clerk's record, a motion to request nonpublication of decisions, and a motion to correct inaccuracies in the record. We have reviewed Appellant's motions and his *Anders* response. In addressing an *Anders* brief and a 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 with counsel that no arguable grounds for appeal exist.¹

We grant counsel's motion to withdraw, and we affirm the judgment of the trial court. Additionally, we overrule Appellant's motion to supplement the clerk's record, motion to request nonpublication of decisions, and motion to correct inaccuracies in the record.

PER CURIAM

April 18, 2019

Do not publish.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

Panel consists of: Bailey, C.J.,
Stretcher, J., and Wright, S.C.J.²

Willson, J., not participating.

¹We note that Appellant has a right to file a petition for discretionary review pursuant to TEX. R. APP. P. 68.

²Jim R. Wright, Senior Chief Justice (Retired), Court of Appeals, 11th District of Texas at Eastland, sitting by assignment.