



In The
Eleventh Court of Appeals

No. 11-20-00014-CR

ALLEN MARK KERNS, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 39th District Court
Haskell County, Texas
Trial Court Cause No. 6901**

MEMORANDUM OPINION

Appellant, Allen Mark Kerns, pleaded guilty to the offense of aggravated sexual assault of a child. *See* TEX. PENAL CODE ANN. § 22.021 (West 2019). Pursuant to the terms of a plea agreement, the trial court deferred a finding of guilt, placed Appellant on community supervision for a term of ten years, and assessed a fine of \$2,500. The State subsequently filed a motion to adjudicate Appellant's guilt.

The trial court held a contested hearing on the State's amended motion to adjudicate, found the State's allegations to be true, and ordered a presentence investigation. The trial court later conducted a disposition hearing, adjudicated Appellant guilty of the charged offense, and assessed his punishment at fifty years' confinement. 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 states that he 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 copy of both the reporter's record and the clerk's record. 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 pro se 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 has not filed a pro se response to counsel's *Anders* brief. Following the procedures outlined in *Anders* and *Schulman*, we have independently reviewed the record, and we agree that the appeal is without merit. The State presented evidence in support of the allegations in the amended motion to adjudicate. In that regard, 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). Further, absent a void judgment, issues relating to an original plea proceeding may not be raised in a subsequent appeal from the revocation of community supervision and adjudication of guilt. *Jordan v. State*, 54

S.W.3d 783, 785–86 (Tex. Crim. App. 2001); *Manuel v. State*, 994 S.W.2d 658, 661–62 (Tex. Crim. App. 1999). Based on our review of the record, we agree with counsel that no arguable grounds for appeal exist.¹

Accordingly, we grant Appellant’s counsel’s motion to withdraw and affirm the judgment of the trial court.

PER CURIAM

October 16, 2020

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 Rule 68 of the Texas Rules of Appellate Procedure.

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