

MODIFY and AFFIRM; and Opinion Filed July 30, 2014.



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-13-01384-CR

CHARLES EDWARD PHINISEE, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the Criminal District Court No. 1
Dallas County, Texas
Trial Court Cause No. F13-70249-H**

MEMORANDUM OPINION

Before Justices Fillmore, Evans, and Lewis
Opinion by Justice Fillmore

Charles Edward Phinisee waived a jury and pleaded not guilty to failure to register as a sex offender. *See* TEX. CODE CRIM. PROC. ANN. art. 62.102(a) (West Supp. 2013). After the trial court found Phinisee guilty, he pleaded true to one enhancement paragraph. The trial court assessed punishment at two years' imprisonment. On appeal, Phinisee's attorney filed a brief in which she concludes the appeal is wholly frivolous and without merit. The brief meets the requirements of *Anders v. California*, 386 U.S. 738 (1967). The brief presents a professional evaluation of the record showing why, in effect, there are no arguable grounds to advance. *See High v. State*, 573 S.W.2d 807, 811–12 (Tex. Crim. App. [Panel Op.] 1978). Counsel delivered a

copy of the brief to Phinisee. We advised Phinisee of his right to file a pro se response, but he did not file a pro se response. *See Kelly v. State*, 2014 WL 2865901 (Tex. Crim. App. June 25, 2014) (identifying duties of appellate courts and counsel in *Anders* cases).

We have reviewed the record and counsel's brief. *See Bledsoe v. State*, 178 S.W.3d 824, 826–27 (Tex. Crim. App. 2005) (explaining appellate court's duty in *Anders* cases). We agree the appeal is frivolous and without merit. We find nothing in the record that might arguably support the appeal.

Although not an arguable issue, we note the trial court's judgment incorrectly states Phinisee entered a guilty plea to the offense. We modify the trial court's judgment to show the plea to the offense was not guilty. *See* TEX. R. APP. P. 43.2(b); *Bigley v. State*, 865 S.W.2d 26, 27–28 (Tex. Crim. App. 1993); *Asberry v. State*, 813 S.W.2d 526, 529–30 (Tex. App.—Dallas 1991, pet. ref'd).

As modified, we affirm the trial court's judgment.

/Robert M. Fillmore/
ROBERT M. FILLMORE
JUSTICE

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TEX. R. APP. P. 47

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**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

CHARLES EDWARD PHINISEE,
Appellant

No. 05-13-01384-CR V.

THE STATE OF TEXAS, Appellee

Appeal from the Criminal District Court
No. 1 of Dallas County, Texas (Tr.Ct.No.
F13-70249-H).

Opinion delivered by Justice Fillmore,
Justices Evans and Lewis participating.

Based on the Court's opinion of this date, the trial court's judgment is **MODIFIED** as follows:

The section entitled "Plea to Offense" is modified to show "Not Guilty."

As modified, we **AFFIRM** the trial court's judgment.

Judgment entered July 30, 2014.