

Affirmed as Modified; Opinion Filed June 2, 2016.



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

**No. 05-15-00569-CR
No. 05-15-00570-CR**

**EARNEST OLIVARREZ, Appellant
v.
THE STATE OF TEXAS, Appellee**

**On Appeal from the Criminal District Court No. 3
Dallas County, Texas
Trial Court Cause Nos. F10-55982-J, F14-59073-J**

MEMORANDUM OPINION

Before Justices Myers, Stoddart, and Whitehill
Opinion by Justice Stoddart

Earnest Olivarrez appeals his conviction, following the adjudication of his guilt, for possession with intent to deliver methamphetamine in an amount of four grams or more but less than 200 grams and his conviction for possession of methamphetamine in an amount of one gram or more but less than four grams. *See* TEX. HEALTH & SAFETY CODE ANN. §§ 481.112(a), (d), 481.115(a), (c) (West 2010). The trial court assessed punishment, enhanced by two enhancement paragraphs, at twenty-five years' imprisonment. On appeal, appellant's attorney filed a brief in which she concludes the appeals are 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 appellant. We advised appellant of his right to file a pro se response, but he did not file a pro se response. See *Kelly v. State*, 436 S.W.3d 313, 319–21 (Tex. Crim. App. 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 appeals are frivolous and without merit. We find nothing in the record that might arguably support the appeals.

Although not an arguable issue, we note the judgment in these cases do not reflect the pleas and findings on the enhancement paragraphs. The record shows appellant pleaded true to two enhancement paragraphs and the trial court found the enhancement paragraphs true in each case. However, in cause no. 05-15-00569-CR, the judgment adjudicating guilt does not show the pleas or the findings on the enhancement paragraphs. In cause no. 05-15-00570-CR, the judgment recites “N/A” for the plea to the first and second enhancement paragraph and “N/A” for the findings on the first and second enhancement paragraph. Thus, on our own motion, we modify both judgments to show the “plea to 1st enhancement paragraph” is “true,” “plea to 2nd enhancement paragraph” is “true,” “findings on 1st enhancement paragraph” is “true,” and “findings on 2nd enhancement paragraph” is “true.” 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 in each case.

/Craig Stoddart/
CRAIG STODDART
JUSTICE

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

JUDGMENT

EARNEST OLIVARREZ, Appellant

No. 05-15-00569-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District Court
No. 3, Dallas County, Texas

Trial Court Cause No. F10-55982-J.

Opinion delivered by Justice Stoddart.

Justices Myers and Whitehill participating.

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

Add section "Plea to 1st Enhancement Paragraph: True."

Add section "Plea to 2nd Enhancement/Habitual Paragraph: True."

Add section "Findings on 1st Enhancement Paragraph: True."

Add section "Findings on 2nd Enhancement/Habitual Paragraph: True."

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

Judgment entered this 2nd day of June, 2016.



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

JUDGMENT

EARNEST OLIVARREZ, Appellant

No. 05-15-00570-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District Court
No. 3, Dallas County, Texas

Trial Court Cause No. F14-59073-J.

Opinion delivered by Justice Stoddart.

Justices Myers and Whitehill participating.

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

The section entitled "Plea to 1st Enhancement Paragraph" is modified to show "True."

The section entitled "Findings on 1st Enhancement Paragraph" is modified to show "True."

The section entitled "Plea to 2nd Enhancement/Habitual Paragraph" is modified to show "True."

The section entitled "Findings on 2nd Enhancement/Habitual" Paragraph is modified to show "True."

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

Judgment entered this 2nd day of June, 2016.