

MODIFY and AFFIRM; and Opinion Filed July 29, 2016.



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

**No. 05-15-01053-CR
No. 05-15-01054-CR
No. 05-15-01055-CR**

**DOMINIQUE ANTHONY SMITH, Appellant
V.
THE STATE OF TEXAS, Appellee**

**On Appeal from the 291st Judicial District Court
Dallas County, Texas
Trial Court Cause Nos. F11-61450-U, F11-62642-U, F13-56568-U**

MEMORANDUM OPINION

**Before Justices Lang-Miers, Evans, and Brown
Opinion by Justice Lang-Miers**

Dominique Anthony Smith appeals his convictions, following adjudication of his guilt, for possession of cocaine in an amount less than one gram, burglary of a habitation, and possession with intent to deliver cocaine in an amount of one gram or more but less than four grams. TEX. HEALTH & SAFETY CODE ANN. §§ 481.112(a), (c), 481.115(a), (b) (West 2010); TEX. PENAL CODE ANN. § 30.02(a) (West 2011). The trial court assessed punishment at two years' confinement in state jail for possession of cocaine and sixteen years' imprisonment for burglary and possession with intent to deliver cocaine. On appeal, appellant's attorney filed briefs in which he concludes the appeals are wholly frivolous and without merit. The briefs meet the requirements of *Anders v. California*, 386 U.S. 738 (1967). The briefs present 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 copies of the briefs 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 briefs. 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 trial court’s judgments adjudicating guilt incorrectly reflect there were plea bargain agreements. The record shows appellant entered an open plea of not true to the allegations in the motions to adjudicate. Accordingly, on our own motion, we modify the section of the judgments entitled “terms of plea bargain” to state “open.” 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 judgments adjudicating guilt.

/Elizabeth Lang-Miers/

ELIZABETH LANG-MIERS
JUSTICE

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TEX. R. APP. P. 47

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

JUDGMENT

DOMINIQUE ANTHONY SMITH,
Appellant

No. 05-15-01053-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 291st Judicial District
Court, Dallas County, Texas
Trial Court Cause No. F11-61450-U.
Opinion delivered by Justice Lang-Miers.
Justices Evans and Brown participating.

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

The section entitled "Terms of Plea Bargain" is modified to show "Open."

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

Judgment entered this 29th day of July, 2016.



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

JUDGMENT

DOMINIQUE ANTHONY SMITH,
Appellant

No. 05-15-01054-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 291st Judicial District
Court, Dallas County, Texas
Trial Court Cause No. F11-62642-U.
Opinion delivered by Justice Lang-Miers.
Justices Evans and Brown participating.

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

The section entitled "Terms of Plea Bargain" is modified to show "Open."

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

Judgment entered this 29th day of July, 2016.



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

JUDGMENT

DOMINIQUE ANTHONY SMITH,
Appellant

No. 05-15-01055-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 291st Judicial District
Court, Dallas County, Texas
Trial Court Cause No. F13-56568-U.
Opinion delivered by Justice Lang-Miers.
Justices Evans and Brown participating.

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

The section entitled "Terms of Plea Bargain" is modified to show "Open."

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

Judgment entered this 29th day of July, 2016.