

MODIFY and AFFIRM; and Opinion Filed February 22, 2018.



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

No. 05-17-00682-CR

No. 05-17-00683-CR

No. 05-17-00684-CR

DAVID CANTU, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the Criminal District Court No. 1
Dallas County, Texas
Trial Court Cause Nos. F09-33052-H, F17-39420-H, F17-39421-H**

MEMORANDUM OPINION

Before Justices Francis, Brown, and Stoddart
Opinion by Justice Brown

David Cantu appeals his conviction, following the adjudication of his guilt, for possession with intent to deliver cocaine in an amount of one gram or more but less than four grams, and his convictions for evading arrest or detention with a vehicle and driving while intoxicated (DWI) with two prior DWI convictions. In the drug case, after finding the allegations in the State's amended motion to adjudicate true, the trial court sentenced appellant to fifteen years' imprisonment. In the evading arrest and DWI cases, the trial court found appellant guilty and assessed punishment, enhanced by a prior felony conviction, at fifteen years' imprisonment in each case. 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, 812 (Tex. Crim. App. [Panel Op.] 1978) (determining whether brief meets requirements of *Anders*). 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) (noting appellant has right to file pro se response to *Anders* brief filed by counsel).

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 these appeals.

Although not arguable issues, we note the trial court’s judgment adjudicating guilt, in cause no. 05-17-00682-CR, and the judgments in cause nos. 05-17-00683-CR and 05-17-00684-CR, incorrectly recite there were plea bargain terms in these cases. The records, however, show appellant entered an open plea of true to the allegations in the amended motion to adjudicate and pleaded guilty to the charges in the two remaining indictments. Accordingly, on our own motion, we modify the section of the judgments in each case entitled “terms of plea bargain” to show “open.” TEX. R. APP. P. 43.2(b); *Bigley v. State*, 865 S.W.2d 26, 27–28 (Tex. Crim. App. 1993) (courts of appeals have authority to modify a judgment); *Estrada v. State*, 334 S.W.3d 57, 63–64 (Tex. App.—Dallas 2009, no pet.).

As modified, we affirm the trial court’s judgment in each case.

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TEX. R. APP. P. 47

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/Ada Brown/

ADA BROWN
JUSTICE



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

JUDGMENT

DAVID CANTU, Appellant

No. 05-17-00682-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District Court
No. 1, Dallas County, Texas

Trial Court Cause No. F09-33052-H.

Opinion delivered by Justice Brown.

Justices Francis and Stoddart 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 22nd day of February, 2018.



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

JUDGMENT

DAVID CANTU, Appellant

No. 05-17-00683-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District Court

No. 1, Dallas County, Texas

Trial Court Cause No. F17-39420-H.

Opinion delivered by Justice Brown.

Justices Francis and Stoddart participating.

Based on the Court's opinion of this date, the judgment 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.

Judgment entered this 22nd day of February, 2018.



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

JUDGMENT

DAVID CANTU, Appellant

No. 05-17-00684-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District Court

No. 1, Dallas County, Texas

Trial Court Cause No. F17-39421-H.

Opinion delivered by Justice Brown.

Justices Francis and Stoddart participating.

Based on the Court's opinion of this date, the judgment 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.

Judgment entered this 22nd day of February, 2018.