

Affirmed as Modified and Opinion Filed September 21, 2018



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-17-01157-CR

CRISTIAN CARLOS TIRADO, Appellant
V.
THE STATE OF TEXAS, Appellee

On Appeal from the 291st Judicial District Court
Dallas County, Texas
Trial Court Cause No. F16-71061-U

MEMORANDUM OPINION

Before Chief Justice Wright, Justice Myers, and Justice Stoddart
Opinion by Chief Justice Wright

A jury convicted Cristian Carlos Tirado for aggravated assault with a deadly weapon, and the trial court assessed punishment at two years' imprisonment. On appeal, appellant's attorney filed a brief in which he 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, 812 (Tex. Crim. App. [Panel Op.] 1978) (determining whether brief meets requirements of *Anders*). 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) (noting appellant has right to file pro se response to *Anders* brief filed by counsel).

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 recites the punishment was assessed by the jury. The record, however, shows appellant elected to have the trial court assess the punishment. Accordingly, on our own motion, we modify the section of the judgment entitled “punishment assessed by” to show “Court.” 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.

/Carolyn Wright/

CAROLYN WRIGHT
CHIEF JUSTICE

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TEX. R. APP. P. 47
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**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

CRISTIAN CARLOS TIRADO, Appellant

No. 05-17-01157-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 291st Judicial District
Court, Dallas County, Texas

Trial Court Cause No. F16-71061-U.

Opinion delivered by Chief Justice Wright.

Justices Myers 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 "Punishment Assessed by" is modified to show "Court."

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

Judgment entered September 21, 2018.