

AFFIRMED as MODIFIED and Opinion Filed October 1, 2021



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

No. 05-19-01573-CR

No. 05-19-01574-CR

**CHRISTOPHER GERARD PRUITT, Appellant
V.
THE STATE OF TEXAS, Appellee**

**On Appeal from the 282nd Judicial District Court
Dallas County, Texas
Trial Court Cause Nos. F18-55425, F18-55426**

MEMORANDUM OPINION

Before Justices Schenck, Smith, and Garcia
Opinion by Justice Garcia

A jury convicted appellant of continuous sexual abuse of a child under the age of fourteen and injury to a child. Punishment was assessed at thirty-six years in prison in the continuous sexual abuse case and two years in prison for the injury to a child case. Judgment was entered accordingly.

On appeal, appellant's counsel has filed a brief in which she concludes the appeal is 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. The State filed a letter brief stating that it agrees with counsel's assessment. 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).

Although not an arguable issue, the State's *Anders* letter notes a clerical error in the trial court's judgment on the continuous sexual abuse case and asks that we modify the judgment to correct the error. Specifically, the judgment erroneously describes the victim as fourteen years old at the time of the offense, while the record reflects that the victim was thirteen years old. We may correct and modify the judgment of a trial court to make the record speak the truth when we have the necessary data and information to do so. *See Ray v. State*, No. 05-17-00820, 2018 WL 1149421, at *2 (Tex. App.—Dallas Mar. 5, 2018, no pet.) (mem. op., not designated for publication) (modifying judgment in *Anders* appeal); *Davis v. State*, No. 01-02-00404-CR, 2003 WL 139655, at *1 (Tex. App.—Houston [1st Dist.] Jan. 9, 2003, no pet.) (mem. op., not designated for publication) (same). The record supports the requested modification. Accordingly, we modify the judgment to reflect that the victim was thirteen years old at the time of the offense. TEX. R. APP. P. 43.2(b).

As required, appellant’s counsel has moved for leave to withdraw and has provided appellant with a copy of the motion. *See In re Schulman*, 252 S.W.3d 403, 407 (Tex. Crim. App. 2008) (orig. proceeding). We carried the motion for consideration with the merits.

Having modified the judgment to correct the clerical error counsel identified, and having reviewed the record, we agree with counsel that this appeal is wholly frivolous and without merit; we find nothing in the record before us that arguably might support the appeal. *See Bledsoe v. State*, 178 S.W.3d 824, 827–28 (Tex. Crim. App. 2005); *see also Meza v. State*, 206 S.W.3d 684, 685 n.6 (Tex. Crim. App. 2006). Accordingly, we grant counsel’s motion to withdraw, affirm the trial court’s judgment as modified in the continuous sexual abuse case, and affirm the judgment in the injury to a child case. *See Tex. R. App. P. 43.2(a), (b)*.

/Dennise Garcia/

DENNISE GARCIA
JUSTICE

Do Not Publish
TEX. R. APP. P. 47.2(b)

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

JUDGMENT

CHRISTOPHER GERARD
PRUITT, Appellant

No. 05-19-01573-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 282nd Judicial
District Court, Dallas County, Texas
Trial Court Cause No. F-1855426-S.
Opinion delivered by Justice Garcia.
Justices Schenck and Smith
participating.

Based on the Court's opinion of this date, the judgment of the trial court is **MODIFIED** to read that the age of the victim at the time of the offense was thirteen years old.
As **REFORMED**, the judgment is **AFFIRMED**.

Judgment entered October 1, 2021



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

JUDGMENT

CHRISTOPHER GERARD
PRUITT, Appellant

No. 05-19-01574-CR V.

THE STATE OF TEXAS, Appellee

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Trial Court Cause No. F18-55425.
Opinion delivered by Justice Garcia.
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Based on the Court's opinion of this date, the judgment of the trial court is
AFFIRMED.

Judgment entered October 1, 2021