

Opinion issued August 19, 2010



In The  
**Court of Appeals**  
For The  
**First District of Texas**

---

NO. 01-09-00208-CR

---

**BILLY RAIBON, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

---

---

**On Appeal from the 241st District Court  
Smith County, Texas<sup>1</sup>  
Trial Court Case No. 241-1170-08**

---

---

**MEMORANDUM OPINION**

---

<sup>1</sup> This case was transferred to this Court from the Twelfth Court of Appeals in Tyler, pursuant to an order by the Supreme Court of Texas. TEX. GOV'T CODE ANN. § 73.001 (Vernon 2005).

Appellant, Billy Raibon, pled guilty to the offense of aggravated assault pursuant to a plea bargain. The trial court followed the agreed punishment recommendation, deferred adjudication of guilt, and placed appellant on community supervision for ten years.

About two weeks later, the State filed a motion to adjudicate guilt, alleging that appellant had violated a condition of his community supervision by using cocaine. Appellant pled not true to this allegation. The trial court heard testimony from appellant and appellant's community supervision officer, found the allegation to be true, and revoked appellant's community supervision and sentenced appellant to fourteen years in prison. Appellant did not file a motion for new trial. Appellant filed a timely notice of appeal. We affirm.

Appellant's counsel on appeal has filed a brief stating that the record presents no reversible error, that the appeal is without merit and frivolous, and that the appeal must be dismissed or affirmed. *See Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396 (1967). The brief meets the requirements of *Anders* by presenting a professional evaluation of the record and detailing why there are no arguable grounds for reversal. *Id.* at 744, 87 S. Ct. at 1400. Appellant's counsel has, in accordance with *Anders* procedures, filed a motion to withdraw. *Id.* Counsel represents that he has served a copy of the brief to the appellant. Counsel also advised appellant of his right to examine the appellate record and file a pro se

response. *See Stafford v. State*, 813 S.W.2d 503, 510 (Tex. Crim. App. 1991). Appellant filed a pro se response.

When this Court receives an *Anders* brief, we evaluate the appeal by conducting an independent review of the entire record. *Anders*, 386 U.S. at 744, 87 S. Ct. at 1400; *Mitchell v. State*, 193 S.W.3d 153, 155 (Tex. App.—Houston [1st Dist.] 2006, no pet.). Our responsibility is to “determine whether there are any arguable grounds” upon which counsel could ethically base an appeal. *Bledsoe v. State*, 178 S.W.3d 824, 827 (Tex. Crim. App. 2005). An arguable ground for appeal is a ground that is not frivolous; it must be an argument that could “conceivably persuade the court.” *In re Schulman*, 252 S.W.3d 403, 407 n.12 (Tex. Crim. App. 2008) (quoting *McCoy v. Court of Appeals of Wis., Dist. 1*, 486 U.S. 429, 436, 108 S. Ct. 1895, 1901 (1988)). If after reviewing the entire record, we conclude that an appeal would be frivolous, we may affirm the trial court by issuing an opinion in which we explain that we found no arguable ground upon which to base an appeal. *Bledsoe*, 178 S.W.3d at 826–28.

In accordance with *Anders*, 386 U.S. at 744–45, 87 S. Ct. at 1400, we have reviewed the entire record,<sup>2</sup> counsel’s *Anders* brief, and appellant’s pro se

---

<sup>2</sup> The record on appeal does not contain one exhibit admitted at trial—a “chain-of-custody” sheet. The court reporter has informed this Court that he was unable to locate that exhibit. However, considering the remaining portions of the record, it is apparent that review of the actual exhibit would not alter our disposition of this case.

response. We conclude that no arguable ground for reversible error exists. Having reached that conclusion, we affirm the lower court's judgment and grant appellant's appointed counsel's motion to withdraw.<sup>3</sup>

**PER CURIAM**

Panel consists of Chief Justice Radack and Justices Bland and Sharp.

Do not publish. TEX. R. APP. P. 47.2(b).

---

<sup>3</sup> We note that appellant's appointed counsel still has a duty to inform appellant of the result of this appeal and that appellant may, on his own, pursue discretionary appeal in the Texas Court of Criminal Appeals. *See Ex Parte Wilson*, 956 S.W.2d 25, 27 (Tex. Crim. App. 1997).