Opinion issued December 16, 2010

In The

Court of Appeals

For The

First District of Texas

NO. 01-09-00854-CR

ANEEKA CHAUHAN, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 400th District Court
Fort Bend County, Texas
Trial Court Case No. 48926A

MEMORANDUM OPINION

A jury convicted appellant Aneeka Chauhan of the offense of accident involving injury or death and assessed punishment at 30 days in county jail, and the court probated her sentence for 18 months. *See* TEX. TRANSP. CODE ANN.

§ 550.021 (Vernon Supp. 2010). On appeal, Chauhan's appointed counsel filed an *Anders* brief on the grounds that the appeal of the conviction and sentence in this case is without merit and wholly frivolous. Chauhan did not file a pro se response. We affirm.

Upon receipt of an *Anders* brief from a defendant's court-appointed attorney asserting that an appeal would be wholly frivolous, the court must conduct and independent review of the record to determine whether arguable grounds for reversal exist. *See Anders v. California*, 386 U.S. 738, 744, 87 S. Ct. 1396, 1400 (1967) (emphasizing that reviewing court, rather than appointed counsel, determines whether case is "wholly frivolous" after full examination of proceedings); *Stafford v. State*, 813 S.W.2d 503, 509–10 (Tex. Crim. App. 1991). In conducting the review, the court considers any pro se response the appellant files to the appointed counsel's *Anders* brief. *See Bledsoe v. State*, 178 S.W.3d 824, 826 (Tex. Crim. App. 2005).

The court's role in an *Anders* case is limited to determining whether arguable grounds for appeal exist. *See id.* at 826–27. As such, the court does not rule on the ultimate merits of the issues raised by an appellant in his pro se response. *Id.* at 827. If the court determines from its independent review of the record that the appeal is wholly frivolous, it may affirm the trial court's judgment by issuing an opinion stating that it has reviewed the record and has found no

arguable grounds for appeal. *See id.* at 826–27. If, however, the court determines that arguable grounds for appeal exist, the court-appointed attorney must be allowed to withdraw, the appeal must be abated, and the case must be remanded to the trial court. *See id.* The trial court must then either appoint another attorney to present all arguable grounds for appeal or allow the appellant to proceed pro se in the appellate court. *Id.* "Only after the issues have been briefed by new counsel may the court of appeals address the merits of the issues raised." *Id.*

In accordance with *Anders*, 386 U.S. at 744–45, 87 S. Ct. at 1400, and *Bledsoe*, 178 S.W.3d at 826–27, this Court has reviewed the entire record, and we have concluded that no arguable grounds for reversal exist. Having reached that conclusion, we affirm the judgment of the trial court and grant Chauhan's appointed counsel's motion to withdraw. Appointed counsel still has a duty to inform Chauhan of the result of this appeal and of her right to file a pro se petition for discretionary review in the Court of Criminal Appeals. TEX. R. APP. P. 48.4; *see Ex Parte Wilson*, 956 S.W.2d 25, 27 (Tex. Crim. App. 1997); *Stephens v. State*, 35 S.W.3d 770, 771–72 (Tex. App.—Houston [1st Dist.] 2000, no pet.).

Michael Massengale
Justice

Panel consists of Chief Justice Radack and Justices Massengale, and Matthews.[*]

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

[*] The Honorable Sylvia Matthews, Judge of the 281st District Court of Harris County, participating by assignment.