

Opinion issued November 30, 2011



In The
Court of Appeals
For The
First District of Texas

NO. 01-09-01016-CR

FRANK ANZALDUA LIRA, Appellant
V.
THE STATE OF TEXAS, Appellee

**On Appeal from the 240th District Court
Fort Bend County, Texas
Trial Court Case No. 46928A**

MEMORANDUM OPINION

A jury found appellant Frank Anzaldua Lira guilty of knowingly and intentionally possessing with the intent to deliver more than 4 grams but less than 200 grams of cocaine and assessed his punishment at forty-five years'

confinement. See TEX. HEALTH & SAFETY CODE ANN. §§ 481.102(3)(D), 481.112(a),(d) (West 2010); TEX. PENAL CODE ANN. § 12.32(a) (West 2011). Lira filed a timely notice of appeal.

Lira's court-appointed counsel filed a brief in which he concludes that there are no arguable grounds for reversal on appeal and that any appeal would, therefore, lack merit. See *Anders v. California*, 386 U.S. 738, 744, 87 S. Ct. 1396, 1400 (1967). Counsel's brief meets the minimum *Anders* requirements by presenting a professional evaluation of the record and stating why there are no arguable grounds for reversal on appeal. See *id.*; see also *In re Schulman*, 252 S.W.3d 403, 406–07 (Tex. Crim. App. 2008). A copy of counsel's brief was delivered to Lira and Lira has been advised 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).

When we receive an *Anders* brief from a defendant's court-appointed attorney who asserts that no arguable grounds for appeal exist, we must determine that issue independently by conducting our own review of the entire record. See *Anders*, 386 U.S. at 744, 87 S. Ct. at 1400 (emphasizing that reviewing court, and not counsel, determines, after full examination of proceedings, whether case is “wholly frivolous”); *Stafford*, 813 S.W.2d at 511. In conducting our review, we consider any pro se response that the defendant files to his appointed counsel's

Anders brief. See *Bledsoe v. State*, 178 S.W.3d 824, 826–27 (Tex. Crim. App. 2005). If our independent review of the record leads us to conclude that the appeal is wholly frivolous, we may affirm the trial court’s judgment by issuing an opinion in which we explain that we have reviewed the record and find no reversible error. *Id.* at 828. Lira may challenge the holding that there are no arguable grounds for appeal by petitioning for discretionary review in the Court of Criminal Appeals. *Id.* at 827 & n.6.

Conclusion

In accordance with *Anders* and *Bledsoe*, we have reviewed the record and the *Anders* brief from Lira’s appointed counsel. We conclude that there are no arguable grounds for reversal on appeal. We therefore affirm the judgment of the trial court and grant appointed counsel’s motion to withdraw.¹

PER CURIAM

Panel consists of Justices Jennings, Sharp and Brown.

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

¹ Appointed counsel still has a duty to inform Lira of the result of this appeal and that he may, on his own, pursue discretionary review in the Court of Criminal Appeals. See *Bledsoe v. State*, 178 S.W.3d 824, 827 & n.6 (Tex. Crim. App. 2005); *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.).