Opinion issued August 11, 2010.

In The
Court of Appeals
For The
First District of Texas

NO. 01-10-00530-CR

JULIUS EDWARD MAPP, Appellant
V.
THE STATE OF TEXAS, Appellee

On Appeal from the 351st District Court
Harris County, Texas
Trial Court Case No. 1187376

MEMORANDUM OPINION

Julius Edward Mapp pled guilty to burglary of a habitation. The trial court deferred adjudication and placed Mapp on community supervision for four years. *See* TEX. PENAL CODE ANN. §§ 30.02(a)(1), (c)(2) (West 2011). The State subsequently moved for adjudication, alleging that Mapp had violated the conditions of his community supervision. After a hearing, the trial court found that Mapp had violated the conditions of his community supervision, convicted him of

burglary of a habitation, and sentenced him to twenty years' confinement. Mapp's court-appointed counsel has filed a motion to withdraw and an *Anders* brief in which he states that no valid grounds for appeal exist and that any appeal would be frivolous. *See Anders v. California*, 386 U.S. 738, 744, 87 S. Ct. 1396, 1400 (1967). Mapp has not filed a pro se response. We have reviewed the record in its entirety and, having found no reversible error or grounds for appeal, we grant counsel's motion to withdraw and affirm the judgment of the trial court.

Background

In October 2008, the State charged Mapp by indictment with burglary of a habitation. The trial court appointed counsel to represent Mapp upon his request. Mapp pled guilty. His guilty plea was signed by Mapp, his counsel, and counsel for the State, and it was approved by the court. The court ordered deferred adjudication and placed Mapp under community supervision for a four-year term. The conditions of supervision included outpatient drug and alcohol counseling, monthly visits to a community supervision officer, participation in an anti-theft program, payment of certain fees, and one hundred hours of community service.

In August 2009, the State moved to adjudicate, alleging that Mapp had violated most of the conditions of his community supervision, including numerous failures to report and to pay fees, failure to participate in the community service program, failure to participate in the anti-shoplifting program, and failure to

participate in outpatient treatment. The State later amended its motion to allege that Mapp had committed a new offense of aggravated robbery, but the State dropped this allegation before the hearing on the motion to adjudicate. At the hearing, Mapp pled "true" to all of the State's alleged violations except failure to pay for an offender identification card. The State then abandoned the allegation concerning the identification card fee. The trial court found Mapp violated the ten conditions alleged by the State to which he pled "true" and revoked his community supervision. The court found Mapp guilty of burglary of a habitation and sentenced him to twenty years' confinement. The trial court certified Mapp's right to appeal, and he timely filed his notice of appeal.

Discussion

The brief submitted by Mapp's court-appointed counsel states his professional opinion that there are no arguable grounds for reversal on appeal and that any appeal would, therefore, lack merit. *See Anders*, 386 U.S. at 744, 87 S. Ct. at 1400. 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.*; *Gainous v. State*, 436 S.W.2d 137, 137–38 (Tex. (Tex. Crim. App. 1969); *In re Schulman*, 252 S.W.3d 403, 406–07 (Tex. Crim. App. 2008). Counsel sent Mapp a letter explaining his conclusion that there were no grounds for appeal and what would happen if the court of appeals granted his

withdrawal from the case. He attached a copy of the *Anders* brief, the motion to withdraw, the court reporter's record, and the clerk's file. This Court also sent Mapp a letter explaining the process for *Anders* briefs and informing him of his right to a copy of the appellate record and to file a response. Mapp has not filed a response.

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. *Anders*, 386 U.S. at 744, 87 S. Ct. at 1400; *Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991). 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 at 407 n.12 (quoting *McCoy v. Ct. of App. of Wisc., Dist. I*, 486 U.S. 429, 436, 108 S. Ct. 1895, 1901 (1988)). 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, 826–28 (Tex. Crim. App. 2005).

Thus, our role in this *Anders* appeal, which includes reviewing the entire record, is limited to determining whether arguable grounds for appeal exist. *See id.* at 827. If we determine that arguable grounds for appeal exist, we do not rule on the merits; we abate the appeal and remand to the trial court for appointment of

new appellate counsel. *See id.* 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 826–28. Mapp may challenge our 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 Mapp'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]

Harvey Brown
Justice

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

Do not publish. TEX. R. APP. P. 47.4.

[1] Appointed counsel still has a duty to inform Mapp 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, 26–27 (Tex. Crim. App. 1997); *Stephens v. State*, 35 S.W.3d 770, 771–72 (Tex. App.—Houston [1st Dist.] 2000, no pet.).