

Opinion issued January 13, 2011



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

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**NO. 01-10-00566-CR**

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**TYRONE VAUGHN ANDRUS A/K/A TYRONE VAUGHN ANDERSON,**  
**Appellant**  
**V.**  
**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 252nd District Court**  
**Jefferson County, Texas\***  
**Trial Court Case No. 09-06072**

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\* The Texas Supreme Court transferred this appeal from the Court of Appeals for the Ninth District of Texas. Misc. Docket No. 10-9105 (Tex. July 16, 2010); *see* TEX. GOV'T CODE ANN. § 73.001 (Vernon 2005) (authorizing transfer of cases). We are unaware of any conflict between precedent of the Court of Appeals for the Ninth District and that of this Court on any relevant issue. *See* TEX. R. APP. P. 41.3.

## MEMORANDUM OPINION

Appellant Tyrone Andrus pleaded guilty to the offense of assault on a family member. *See* TEX. PENAL CODE ANN. § 22.01(b)(2)(A) (Vernon Supp 2010); TEX. FAM. CODE ANN. §§ 71.003, 71.005 (Vernon 2008). The trial court deferred adjudication of guilt pursuant to an agreed punishment recommendation, assessing three years' probation and a \$500 fine. The trial court later granted a motion to revoke probation and assessed Andrus's punishment at nine years' imprisonment. Andrus gave timely notice of appeal, and counsel was appointed to represent him. His appointed counsel filed an *Anders* brief on the grounds that the appeal of the conviction and sentence in this cause is without merit and wholly frivolous. Andrus 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 an independent review of the record to determine whether arguable grounds for appeal 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. 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.* 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.* at 827. 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 conclude that no arguable grounds for reversal exist. Having reached that conclusion, we affirm the judgment of the trial court and grant Andrus's appointed counsel's motion to withdraw. Appointed counsel still has a duty to inform Andrus of the result of this appeal and of his 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.).

**PER CURIAM**

Panel consists of Justices Keyes, Sharp, and Massengale.

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