

Opinion issued October 6, 2011.



In The
Court of Appeals
For The
First District of Texas

NO. 01-10-00628-CR

LEXUS CLARK, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 263rd District Court
Harris County, Texas
Trial Court Case No. 1239033**

MEMORANDUM OPINION

Lexus Clark pled guilty to the felony offense of aggravated robbery. *See* TEX. PENAL CODE ANN. § 29.03 (West 2003). After a pre-sentencing investigation hearing, the trial court assessed punishment at ten years' confinement. Clark'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). Clark has not filed a *pro se* response. Because we conclude that appellant has raised no arguable grounds for appeal, we grant counsel's motion to withdraw and affirm the judgment of the trial court.

Background

In January 2010, the State charged Clark by indictment with aggravated robbery, a first degree felony offense punishable by five to ninety-nine years' imprisonment. *See* TEX. PENAL CODE ANN. §§ 12.32, 29.03 (West 2003). Her guilty plea was signed by Clark, her counsel, and counsel for the State, and it was approved by the court. At the pre-sentencing hearing, Clark admitted to participating in the aggravated robbery, showed remorse for her crime, and expressed an intent to reform. The trial court sentenced her to ten years' imprisonment. This appeal followed.

Discussion

The brief submitted by Clark'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.*; *see also In re Schulman*, 252 S.W.3d 403, 406–07 (Tex. Crim. App. 2008). Counsel sent Clark a letter informing her of his conclusion that there was no reversible error that could be raised on her behalf on appeal, explaining his analysis in reaching that conclusion, and stating that he filed an *Anders* brief with the Court. He also informed Clark of her right to examine the record and file a *pro se* brief. He provided her with a copy of the his *Anders* brief, his motion to withdraw, and rule 68 of the Texas Rules of Appellate Procedure.

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 v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991). In conducting our review, we consider any *pro se* response that the defendant files to her 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. Clark 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 Clark'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 Justices Jennings, Sharp and Brown.

Do not publish.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

¹ Appointed counsel still has a duty to inform Clark of the result of this appeal and that she may, on her 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.).