

Opinion issued July 21, 2016.



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

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NO. 01-14-00945-CR

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**ZACHARY KEITH HILL, Appellant**  
**V.**  
**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 263rd District Court**  
**Harris County, Texas**  
**Trial Court Case No. 1281596**

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**MEMORANDUM OPINION**

After appellant, Zachary Keith Hill, pleaded guilty to the second-degree felony offense of burglary of a habitation with intent to commit assault, without an agreed punishment recommendation, the trial court deferred adjudication of his

guilt and placed him on community supervision for a period of five years.<sup>1</sup> The State subsequently moved to adjudicate appellant's guilt, alleging that he had violated several conditions of his community supervision and had committed a new offense of criminal mischief, but appellant pleaded not true to all allegations.<sup>2</sup> At the adjudication and sentencing hearing, the trial court found multiple alleged violations true, adjudicated appellant's guilt, and assessed his punishment at ten years' confinement. This sentence is within the applicable range. *See* TEX. PENAL CODE ANN. § 12.33(a) (Vernon 2011). The trial court certified that this was not a plea-bargain case and that appellant had a right to appeal. *See* TEX. R. APP. P. 25.2(a)(2). Appellant timely filed a notice of appeal.

Appellant's appointed counsel on appeal has filed a motion to withdraw along with an *Anders* brief stating that the record presents no reversible error and that, therefore, the appeal is without merit and is frivolous. *See Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396 (1967). Counsel's brief meets the *Anders* requirements by presenting a professional evaluation of the record and supplying this Court with references to the record and legal authority. *See id.* at 744, 87 S. Ct. at 1400; *see also High v. State*, 573 S.W.2d 807, 812 (Tex. Crim. App. 1978). Counsel indicates that he has thoroughly reviewed the record and that he is unable

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<sup>1</sup> *See* TEX. PENAL CODE ANN. § 30.02(a)(1), (b)(1), and (c)(2) (Vernon 2011); TEX. CODE CRIM. PROC. ANN. art. 42.12, § 5(a) (Vernon Supp. 2015).

<sup>2</sup> *See* TEX. PENAL CODE ANN. § 28.03(a)(1) (Vernon Supp. 2015); TEX. CODE CRIM. PROC. ANN. art. 42.12, §§ 5(b), 21(e) (Vernon Supp. 2015).

to advance any grounds of error that warrant reversal. *See Anders*, 386 U.S. at 744, 87 S. Ct. at 1400; *Mitchell v. State*, 193 S.W.3d 153, 155 (Tex. App.—Houston [1st Dist.] 2006, no pet.).

Appellant’s counsel has informed us that she mailed a copy of the motion to withdraw and the *Anders* brief to appellant. *See In re Schulman*, 252 S.W.3d 403, 408 (Tex. Crim. App. 2008). Furthermore, appellant’s counsel has informed this Court that she sent a copy of the record to appellant for his review. *See Kelly v. State*, 436 S.W.3d 313, 320 n.22, 322 (Tex. Crim. App. 2014). Appellant has not filed a *pro se Anders* response, and his deadline has passed.

We have independently reviewed the entire record in this appeal, and we conclude that no reversible error exists in the record, that there are no arguable grounds for review, and that therefore the appeal is frivolous. *See Anders*, 386 U.S. at 744, 87 S. Ct. at 1400 (emphasizing that the reviewing court—and not counsel—determines, after full examination of proceedings, whether appeal is wholly frivolous); *Garner v. State*, 300 S.W.3d 763, 767 (Tex. Crim. App. 2009) (reviewing court must determine whether arguable grounds for review exist); *Bledsoe v. State*, 178 S.W.3d 824, 826–28 (Tex. Crim. App. 2005) (reviewing court is not to address merits of each claim raised in *Anders* brief or *pro se* response after determining there are no arguable grounds for review); *Mitchell*, 193 S.W.3d at 155. An appellant may challenge a holding that there are no arguable

grounds for appeal by filing a petition for discretionary review in the Texas Court of Criminal Appeals. *See Bledsoe*, 178 S.W.3d at 827 n.6.

### **CONCLUSION**

Accordingly, we affirm the judgment of the trial court and grant counsel's motion to withdraw.<sup>3</sup> *See* TEX. R. APP. P. 43.2(a). Attorney Melissa Martin must immediately send the required notice and file a copy of that notice with the Clerk of this Court. *See* TEX. R. APP. P. 6.5(c). We dismiss any other pending motions as moot.

### **PER CURIAM**

Panel consists of Justices Higley, Bland, and Massengale.

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

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<sup>3</sup> Appointed counsel still has a duty to inform appellant of the result of this appeal and that he may, on his own, pursue discretionary review in the Texas Court of Criminal Appeals. *See Bledsoe*, 178 S.W.3d at 826–27.