

Opinion issued January 4, 2018



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

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NO. 01-16-00352-CR

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**GUADALUPE HENRY ZAMBRANO, Appellant**  
**V.**  
**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 232nd District Court**  
**Harris County, Texas**  
**Trial Court Case No. 1461905**

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**MEMORANDUM OPINION**

Without an agreed recommendation from the State, appellant, Guadalupe Henry Zambrano, pleaded guilty to the felony offense of robbery. The trial court

found appellant guilty of the state-jail-felony offense of theft,<sup>1</sup> assessed his punishment at confinement for nine months, and certified that he had the right to appeal. Appellant timely filed a notice of appeal.

Appellant's appointed counsel on appeal has filed a motion to withdraw, along with a brief stating that the record presents no reversible error and 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 us with references to the record and legal authority. 386 U.S. 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 is unable 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.).

Counsel has informed the Court that he delivered a copy of the brief to appellant and informed him of his right to examine the appellate record and file a response to counsel's *Anders* brief. *See Kelly v. State*, 436 S.W.3d 313, 319 (Tex.

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<sup>1</sup> *See* TEX. PENAL CODE ANN. § 31.03(a), (b)(1), (e)(4)(B) (West Supp. 2017); *see also Neelys v. State*, 374 S.W.3d 553, 560 (Tex. App.—Houston [14th Dist.] 2012, pet. ref'd) (explaining theft is lesser included offense of robbery).

Crim. App. 2014) (citations omitted); *In re Schulman*, 252 S.W.3d 403, 408 (Tex. Crim. App. 2008). Appellant has not filed a response to his counsel's *Anders* brief.

We have independently reviewed the entire record in this appeal, and we conclude that no reversible error exists in the record, there are no arguable grounds for review, and the appeal is frivolous. *See Anders*, 386 U.S. at 744, 87 S. Ct. at 1400 (emphasizing 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, 826–27 (Tex. Crim. App. 2005) (same); *Mitchell*, 193 S.W.3d at 155 (reviewing court determines whether arguable grounds exist by reviewing entire record). We note that 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.

We affirm the judgment of the trial court and grant counsel's motion to withdraw.<sup>2</sup> Attorney J. Sidney Crowley must immediately send appellant the required notice and file a copy of the notice with the Clerk of this Court. *See TEX. R. APP. P. 6.5(c)*. We dismiss any other pending motions as moot.

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<sup>2</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 Ex Parte Wilson*, 956 S.W.2d 25, 27 (Tex. Crim. App. 1997).

**PER CURIAM**

Panel consists of Justices Keyes, Brown, and Lloyd.

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