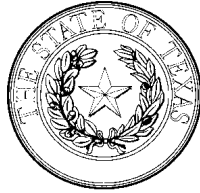


Opinion issued August 23, 2022



In The
Court of Appeals
For The
First District of Texas

NOS. 01-21-00260-CR & 01-21-00261-CR

JOSHUA COTTON, Appellant
V.
THE STATE OF TEXAS, Appellee

**On Appeal from the 177th District Court
Harris County, Texas
Trial Court Cause Nos. 1593237 & 1593238**

MEMORANDUM OPINION

Appellant, Joshua Cotton, pleaded guilty, without an agreed punishment recommendation from the State, to two separate offenses of aggravated robbery.¹

¹ Appellate cause number 01-21-00260-CR corresponds to trial court case number 1593237. Appellate cause number 01-21-00261-CR corresponds to trial court case number 1593238.

See TEX. PENAL CODE § 29.03. In each case, the trial court deferred adjudication of appellant's guilt and placed him on community supervision for ten years. The State subsequently filed a motion to adjudicate appellant's guilt in each case, alleging numerous violations of the conditions of his community supervision, including that he committed new aggravated robberies. Appellant pleaded "not true" to the alleged violations. After a hearing, the trial court found the allegations true, adjudicated appellant guilty of aggravated robbery in each of the underlying cases, and assessed his punishment at confinement for sixty years in each case, with the sentences to run concurrently. The trial court also entered an affirmative finding that appellant used or exhibited a deadly weapon, namely, a firearm, during the commission of each offense. The trial court certified that these are not plea-bargain cases and that appellant has a right to appeal. Appellant timely filed notices of appeal.

Appellant's appointed counsel on appeal has moved to withdraw and filed a brief, stating that, in each case, the record presents no reversible error and that the appeal lacks merit and is frivolous. *See Anders v. California*, 386 U.S. 738 (1967). Counsel's brief meets the *Anders* requirements by presenting a professional evaluation of each record and supplying references to the record and legal authority. *See id.* at 744; *see also High v. State*, 573 S.W.2d 807, 812 (Tex. Crim. App. 1978). Counsel states that she has thoroughly reviewed each record and is unable to advance

any ground of error warranting reversal. *See Anders*, 386 U.S. at 744; *Mitchell v. State*, 193 S.W.3d 153, 155 (Tex. App.—Houston [1st Dist.] 2006, no pet.).

Appellant’s counsel has certified that she mailed a copy of the motion to withdraw and the *Anders* brief to appellant and informed him of his right to access the record and file a response. *See In re Schulman*, 252 S.W.3d 403, 408 (Tex. Crim. App. 2008). Counsel also certified that she provided appellant with a form motion for pro se access to the records for his response. *See Kelly v. State*, 436 S.W.3d 313, 322 (Tex. Crim. App. 2014). Appellant did not file a response to the *Anders* brief.

We have independently reviewed the entire record in each 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 (emphasizing that 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 judgments of the trial court and grant counsel's motion to withdraw in each case.² Attorney Mandy Miller 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).

PER CURIAM

Panel consists of Chief Justice Radack and Justices Landau and Hightower.

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

² Appointed counsel still has a duty to inform appellant of the result of these appeals 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).