

Affirmed and Memorandum Opinion filed March 22, 2016.



In The

Fourteenth Court of Appeals

NO. 14-15-00358-CR

KENNY JACKSON, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 177th District Court
Harris County, Texas
Trial Court Cause No. 1447087**

M E M O R A N D U M O P I N I O N

After a jury trial, appellant was convicted of theft of copper, and sentenced to two years' confinement in the Institutional Division of the Texas Department of Criminal Justice.

Appellant was represented on appeal by retained counsel. On December 22, 2015, appellant's retained counsel filed a motion to withdraw stating that he had reviewed the record and concluded the appeal lacks merit. The procedural

safeguards of *Anders v. California*, 386 U.S. 738 (1967), and its progeny do not apply to retained attorneys and we do not have the same supervisory role in guaranteeing the attorney's representation as we do with an appointed attorney. *Nguyen v. State*, 11 S.W.3d 376, 379 (Tex. App.—Houston [14th Dist.] 2000, no pet.). *Anders* applies to ensure that “indigent defendants have the benefit of what wealthy defendants are able to acquire by purchase.” See *Oldham v. State*, 894 S.W.2d 561, 562 (Tex. App.—Waco 1995, no pet.) (citing *McCoy v. Court of Appeals of Wisconsin, Dist. 1*, 486 U.S. 429, 439 (1988)). When an appellant is represented by retained counsel, he has obtained that which *Anders* strives to assure. See *Oldham*, 894 S.W.2d at 562. Thus, the retained attorney is not required to file an *Anders* brief along with his motion to withdraw. See *Nguyen*, 11 S.W.3d at 379.

Once a motion to withdraw has been filed by appointed counsel, our duties as a reviewing court commence. *Nguyen*, 11 S.W.3d at 379. We evaluate retained counsel's request to withdraw based on the Texas Rules of Appellate Procedure. See Tex. R. App. P. 6.5. Because appellant's retained attorney met the minimum requirements of rule 6.5, we granted his motion to withdraw and notified appellant of appellant's right to file a pro se response on or before February 12, 2016. Appellant has not filed a pro se response. Appellant has not informed this court of his intent to proceed on appeal pro se or to retain another attorney. Because appellant has not responded, we reviewed the record in its entirety. We agree with appellate counsel that the appeal lacks merit.

Accordingly, we affirm the judgment of the trial court.

PER CURIAM

Panel consists of Chief Justice Frost and Justices Boyce and Wise.
Do Not Publish — Tex. R. App. P. 47.2(b).