

*Court Of Appeals
Fourth Court of Appeals District of Texas
San Antonio*



MEMORANDUM OPINION

No. 04-07-00827-CV

In the **MATTER OF F.C.M.**

From the 289th Judicial District Court, Bexar County, Texas
Trial Court No. 2007-JUV-02114
Honorable, Carmen Kelsey, Judge Presiding

Opinion by: Steven C. Hilbig, Justice

Sitting: Catherine Stone, Justice
Karen Angelini, Justice
Steven C. Hilbig, Justice

Delivered and Filed: June 18, 2008

MOTION TO WITHDRAW GRANTED; AFFIRMED

Pursuant to a plea bargain agreement, F.C.M. pleaded true to the State's petition alleging he committed the offense of aggravated assault with a deadly weapon. The trial court followed the plea agreement by taking into consideration five other delinquency cases and imposing a five-year determinate sentence.

F.C.M.'s court-appointed appellate attorney filed a motion to withdraw and a brief in which he asserts the appeal should be dismissed or, alternatively, there are no meritorious issues to raise on appeal. Because the trial court followed the plea bargain, F.C.M. could appeal only if the trial court granted permission. TEX. FAM. CODE ANN. § 56.01(n) (Vernon 2002). The trial court's

statements to F.C.M. regarding appeal are ambiguous and arguably constitute a grant of permission to appeal. Accordingly, we will not dismiss the appeal.

Counsel's brief meets the requirements of *Anders v. California*, 386 U.S. 738, (1967), *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. 1978), and *Gainous v. State*, 436 S.W.2d 137 (Tex. Crim. App. 1969); see *In re D.A.S.*, 973 S.W.2d 296, 297 (Tex. 1998) (*Anders* procedures apply to appeals from juvenile delinquency adjudications); *In re A.L.H.*, 974 S.W.2d 359, 360 (Tex. App.—San Antonio 1998, no pet.) (same). Counsel states she has provided the juvenile and his guardian copies of the brief and motion to withdraw and informed them of the juvenile's right to review the record and file his own brief. See *A.L.H.*, 974 S.W.2d at 360-61; *Nichols v. State*, 954 S.W.2d 83, 85-86 (Tex. App.—San Antonio, 1997, no pet.); *Bruns v. State*, 924 S.W.2d 176, 177 n.1 (Tex. App.—San Antonio 1996, no pet.). No pro se brief has been filed.

After reviewing the record and counsel's brief, we find no reversible error and agree with counsel the appeal is wholly frivolous. See *Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005). We therefore grant the motion to withdraw filed by F.C.M.'s counsel and affirm the trial court's judgment. See *id.*; *Nichols v. State*, 954 S.W.2d 83, 86 (Tex. App.—San Antonio 1997, no pet.); *Bruns v. State*, 924 S.W.2d 176, 177 n.1 (Tex. App.—San Antonio 1996, no pet.).

Steven C. Hilbig, Justice