

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



**MEMORANDUM OPINION**

No. 04-08-00205-CR

Richard **BURNS**,  
Appellant

v.

The **STATE** of Texas,  
Appellee

From the 379th Judicial District Court, Bexar County, Texas  
Trial Court No. 2006-CR-7717  
Honorable Bert Richardson, Judge Presiding

Opinion by: Catherine Stone, Justice

Sitting: Catherine Stone, Justice  
Phylis J. Speedlin, Justice  
Steven C. Hilbig, Justice

Delivered and Filed: December 10, 2008

**AFFIRMED**

Richard Burns pleaded nolo contendere to the felony offense of enhanced assault and was placed on community supervision for a term of eight years. The State filed a motion to revoke Burns's community supervision, alleging Burns had violated the terms of his supervision by using a controlled substance (cocaine) on March 10, 2008. After a hearing on the State's motion, the trial court revoked Burns's community supervision. The trial court subsequently sentenced Burns to a term of eight years imprisonment. We affirm.

Burns's court-appointed appellate attorney filed a brief containing a professional evaluation of the record in accordance with *Anders v. California*, 386 U.S. 738 (1967). Counsel concludes that the appeal is frivolous and without merit. Counsel provided Burns with a copy of the brief and informed him of his right to review the record and file his own brief. See *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.). Burns did not file a *pro se* brief.

After reviewing the record and counsel's brief, we agree that the appeal is frivolous and without merit. The judgment of the trial court is therefore affirmed. Furthermore, we grant appellate counsel's motion to withdraw. *Nichols v. State*, 954 S.W.2d at 86; *Bruns* 924 S.W.2d at 177 n.1. No substitute counsel will be appointed. Should Burns wish to seek further review of this case by the Texas Court of Criminal Appeals, he must either retain an attorney to file a petition for discretionary review or file a *pro se* petition for discretionary review. Any petition for discretionary review must be filed within thirty days from the date of either this opinion or the last timely motion for rehearing that was overruled by this court. See TEX. R. APP. P. 68.2. Any petition for discretionary review must be filed with this court, after which it will be forwarded to the Texas Court of Criminal Appeals. See TEX. R. APP. P. 68.3; 68.7. Any petition for discretionary review should comply with the requirements of Rule 68.4 of the Texas Rules of Appellate Procedure. See TEX. R. APP. P. 68.4.

Catherine Stone, Justice

DO NOT PUBLISH