

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



**MEMORANDUM OPINION**

No. 04-08-00216-CR

Abel **BISCAINO**,  
Appellant

v.

The **STATE** of Texas,  
Appellee

From the 144th Judicial District Court, Bexar County, Texas  
Trial Court No. 2006-CR-2264  
Honorable Catherine Torres-Stahl, Judge Presiding

Opinion by: Sandee Bryan Marion, Justice

Sitting: Karen Angelini, Justice  
Sandee Bryan Marion, Justice  
Rebecca Simmons, Justice

Delivered and Filed: December 3, 2008

**AFFIRMED**

A jury found defendant, Abel Biscaino, guilty of theft of a firearm and assessed punishment at two years' confinement. Defendant's court-appointed appellate attorney filed a brief containing a professional evaluation of the record and demonstrating that there are no arguable grounds to be advanced. Counsel concludes that the appeal is without merit. The brief meets the requirements of *Anders v. California*, 386 U.S. 738 (1967). Defendant was informed of his right to review the


record. Counsel provided defendant with a copy of the brief and advised him of his right to file a pro se brief. Defendant has not filed a pro se brief.

After reviewing the record and counsel's brief, we agree that the appeal is frivolous and without merit. Accordingly, we affirm the trial court's judgment, and we GRANT appellate counsel's motion to withdraw.<sup>1</sup> *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.).

Sandee Bryan Marion, Justice

DO NOT PUBLISH

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<sup>1</sup>  No substitute counsel will be appointed. See *In re Schulman*, 252 S.W.3d 403, 408 n.22 (Tex. Crim. App. 2008). Should defendant wish to seek further review of this case by the Texas Court of Criminal Appeals, defendant 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 is 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 along with the rest of the filings in this case. See TEX. R. APP. P. 68.3. Any petition for discretionary review must comply with the requirements of Texas Rules of Appellate Procedure 68.4.