

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



MEMORANDUM OPINION

No. 04-08-00250-CR

Linzy Eugene **THOMAS**,
Appellant

v.

The State of **TEXAS**,
Appellee

From the 175th Judicial District Court, Bexar County, Texas
Trial Court No. 2006-CR-7700W
Honorable Mary Roman, Judge Presiding

Opinion by: Karen Angelini, Justice

Sitting: Karen Angelini, Justice
Rebecca Simmons, Justice
Steven C. Hilbig, Justice

Delivered and Filed: October 1, 2008

AFFIRMED; MOTION TO WITHDRAW GRANTED

Appellant Linzy Eugene Thomas was charged by information with the felony offense of possession of a controlled substance. Pursuant to a plea agreement, Thomas entered a plea of nolo contendere to the offense charged in the information. The trial court followed the plea agreement and assessed punishment at two years confinement; however, the court suspended the execution of the sentence and placed Thomas on community supervision for a period of two years. The State subsequently filed a motion to revoke Thomas's community supervision. After Thomas pled true

to violating a condition of his community supervision, the trial court revoked Thomas's community supervision and assessed punishment at two years confinement. The trial court certified Thomas's right to appeal, and a timely notice of appeal was filed.

Thomas's court-appointed appellate attorney has filed a brief in which he concludes that this appeal is frivolous and without merit. *See Anders v. California*, 386 U.S. 738 (1967); *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. 1978). Counsel states that Thomas was provided with a copy of the brief and motion to withdraw and was further informed of his right to review the record and file his own brief. *See Bruns v. State*, 924 S.W.2d 176, 178 n. 1 (Tex. App.—San Antonio 1996, no writ). Thomas did not file a pro se brief.

We have reviewed the record and counsel's brief. We agree that the appeal is frivolous and without merit. The judgment of the trial court is affirmed. Furthermore, we grant the motion to withdraw. *See Nichols v. State*, 954 S.W.2d 83, 85-86 (Tex. App.—San Antonio 1997, no writ); *Bruns*, 924 S.W.2d at 178 n. 1. No substitute counsel will be appointed. Should Thomas wish to seek further review of this case by the Texas Court of Criminal Appeals, Thomas 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 after either the date of this opinion or the date the last timely motion for rehearing 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. *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*.

Karen Angelini, Justice

DO NOT PUBLISH