

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



MEMORANDUM OPINION

No. 04-09-00663-CR

David **FUENTES**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the County Court at Law No. 7, Bexar County, Texas
Trial Court No. 262493
Honorable Monica E. Guerrero, Judge Presiding

Opinion by: Karen Angelini, Justice

Sitting: Karen Angelini, Justice
Santee Bryan Marion, Justice
Steven C. Hilbig, Justice

Delivered and Filed: April 7, 2010

AFFIRMED

On October 8, 2008, Appellant David Fuentes pled nolo contendere to the misdemeanor offense of assault bodily injury - married and was sentenced to one year of confinement in the Adult Detention Center of Bexar County and a fine of \$1000. His sentence was then suspended, and he was placed on probation for one year. On August 24, 2009, at a hearing on the State's motion to revoke his probation, Fuentes pled "true" to having violated the condition of his probation requiring him to

report to his supervision officer. The trial court found that he had violated this condition of his probation, revoked his probation, and sentenced him to ten months of confinement and a \$500 fine. Fuentes then timely filed a notice of appeal.

Fuentes's court-appointed appellate attorney filed a brief in which he notes that the record reflects that Fuentes voluntarily pled true to having violated a condition of his probation. Further, his court-appointed attorney notes that the record does not indicate that Fuentes received ineffective assistance of counsel, nor does the record indicate any jurisdictional defects. Thus, Fuentes's court-appointed attorney 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 further states that Fuentes 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, 177 n.1 (Tex. App.—San Antonio 1996, no pet.). Fuentes 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 pet.); *Bruns*, 924 S.W.2d at 177 n.1.

No substitute counsel will be appointed. Should appellant 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 must 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 Rule 68.4 of the Texas Rules of Appellate Procedure. TEX. R. APP. P. 68.4.

Karen Angelini, Justice

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