

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



MEMORANDUM OPINION

Nos. 04-10-00900-CR; 04-10-00901-CR; 04-10-00902-CR;
04-10-00903-CR & 04-10-00904-CR

Erick **LOZANO**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 186th Judicial District Court, Bexar County, Texas
Trial Court Nos. 2010CR2754; 2010CR2573; 2010CR2752; 2010CR2734B & 2010CR2733B
Honorable Maria Teresa Herr, Judge Presiding

Opinion by: Catherine Stone, Chief Justice

Sitting: Catherine Stone, Chief Justice
Karen Angelini, Justice
Rebecca Simmons, Justice

Delivered and Filed: June 20, 2012

AFFIRMED

Erick Lozano pled guilty or no contest to five offenses pursuant to an open plea, and the trial court sentenced Lozano within the punishment range for each offense. In each of these appeals, Lozano's court-appointed 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 each of the appeals has no merit. Lozano was provided with a copy of the brief and informed 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.). Lozano filed a *pro se* brief asserting numerous issues.

After reviewing the record, counsel’s brief, and Lozano’s *pro se* brief, we conclude that the appeal is frivolous and without merit. *See Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005).¹ The judgments of the trial court are affirmed. Appellate counsel’s motion to withdraw is granted. *Nichols*, 954 S.W.2d at 86; *Bruns*, 924 S.W.2d at 177 n.1. No substitute counsel will be appointed. Should Lozano wish to seek further review of this case by the Texas Court of Criminal Appeals, Lozano must either retain an attorney to file a petition for discretionary review or Lozano must file a *pro se* petition for discretionary review. Any petition for discretionary review must be filed within thirty days from the later of: (1) the date of this opinion; or (2) 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 in the Texas Court of Criminal Appeals. *See* TEX. R. APP. P. 68.3. 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, Chief Justice

DO NOT PUBLISH

¹If an *Anders* brief is filed in an appeal and the appellant elects to file a *pro se* brief, the Texas Court of Criminal Appeal has instructed that this court has two choices. *Bledsoe*, 178 S.W.2d at 826-27. We may “determine that the appeal is wholly frivolous and issue an opinion explaining that [the court] has reviewed the record and finds no reversible error.” *Id.* “Or, [we] may determine that arguable grounds for appeal exist and remand the cause to the trial court so that new counsel may be appointed to brief the issues.” *Id.* at 827. “Only after the issues have been briefed by new counsel may [this court] address the merits of the issues raised.” *Id.* If we “were to review the case and issue an opinion which addressed and rejected the merits raised in a *pro se* response to an *Anders* brief, then [the] [a]ppellant would be deprived of the meaningful assistance of counsel.” *Id.*