

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



MEMORANDUM OPINION

Nos. 04-12-00096-CR & 04-12-00097-CR

Zachary Paul **FRANKLIN**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 399th Judicial District Court, Bexar County, Texas
Trial Court Nos. 2009-CR-6185 & 2009-CR-10769W
Honorable Juanita A. Vasquez-Gardner, Judge Presiding

Opinion by: Steven C. Hilbig, Justice

Sitting: Phylis J. Speedlin, Justice
Rebecca Simmons, Justice
Steven C. Hilbig, Justice

Delivered and Filed: October 24, 2012

MOTION TO WITHDRAW GRANTED; AFFIRMED

Zachary Paul Franklin appeals the trial court's judgments adjudicating him guilty in two separate causes. In trial court cause number 2009-CR-6185, Franklin was charged with possession of more than one gram, but less than four grams, of a penalty group 1 controlled substance. In cause number 2009-CR-10769W, Franklin was charged with possession with intent to deliver less than twenty-eight grams of a penalty group 3/4 controlled substance. Franklin pled no contest to both charges in exchange for the State's recommendation that

adjudication be deferred. On October 21, 2009, the trial court deferred adjudication and placed Franklin on community supervision for a period of four years in each cause. The State later filed a motion to adjudicate guilt, alleging Franklin violated various conditions of his community supervision. In each case, Franklin pled true to violating condition number five, which required him to report to his supervision officer. The trial court adjudicated Franklin guilty and sentenced him to two years confinement and a fine of \$1,500 in 2009-CR-6185 and to nine months confinement and a fine of \$1,200 in 2009-CR-10769W, with the sentences of confinement running concurrently. Franklin appealed both judgments and this court consolidated the appeals.

Franklin's court-appointed appellate attorney filed a motion to withdraw and a brief in which he raises no arguable points of error and concludes the appeals are frivolous and without merit. The brief meets the requirements of *Anders v. California*, 386 U.S. 738 (1967), *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. 1978), and *Gainous v. State*, 436 S.W.2d 137 (Tex. Crim. App. 1969). Counsel states Franklin was provided 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. Franklin has not done so.

After reviewing the records and counsel's brief, we find no reversible error and agree with counsel the appeals are wholly frivolous. *See Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005). We therefore grant the motion to withdraw filed by Franklin's counsel and affirm the trial court's judgments. *See id.*; *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.).

No substitute counsel will be appointed. Should Franklin 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 after either this opinion is rendered or the last timely motion for rehearing or motion for en banc reconsideration is overruled by this court. *See* TEX. R. APP. P. 68.2. Any petition for discretionary review must be filed with the clerk of the Court of Criminal Appeals. *See id.* R. 68.3. Any petition for discretionary review must comply with the requirements of rule 68.4 of the Texas Rules of Appellate Procedure. *See id.* R. 68.4.

Steven C. Hilbig, Justice

DO NOT PUBLISH