



**Fourth Court of Appeals**  
**San Antonio, Texas**

**MEMORANDUM OPINION**

No. 04-12-00289-CR

Nicholas **CASTLEBERRY**,  
Appellant

v.

The **STATE** of Texas,  
Appellee

From the 144th Judicial District Court, Bexar County, Texas  
Trial Court No. 2009CR1092W  
Angus McGinty, Judge Presiding

Opinion by: Rebeca C. Martinez, Justice

Sitting: Catherine Stone, Chief Justice  
Santee Bryan Marion, Justice  
Rebeca C. Martinez, Justice

Delivered and Filed: February 20, 2013

**AFFIRMED**

Based on Nicholas Castleberry's plea of true to violating the terms of his community supervision, the trial court revoked Castleberry's community supervision and sentenced him to six years imprisonment. Castleberry'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 the appeal has no merit. Castleberry 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.). Castleberry did not file a *pro se* brief.

After reviewing the record and counsel's brief, we conclude that the appeal is frivolous and without merit. The judgment of the trial court is 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 Castleberry wish to seek further review of this case by the Texas Court of Criminal Appeals, Castleberry must either retain an attorney to file a petition for discretionary review or Castleberry 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.

Rebeca C. Martinez, Justice

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