



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-13-00290-CR

Patricia Jean **SMITH**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 198th Judicial District Court, Kerr County, Texas
Trial Court No. B09472
Honorable M. Rex Emerson, Judge Presiding

Opinion by: Luz Elena D. Chapa, Justice

Sitting: Catherine Stone, Chief Justice
Karen Angelini, Justice
Luz Elena D. Chapa, Justice

Delivered and Filed: January 8, 2014

MOTION TO WITHDRAW GRANTED; AFFIRMED

Patricia Jean Smith appeals the judgment sentencing her to five years in prison for the offense of Delivery of a Controlled Substance–Drug Free Zone. Smith pled guilty to the charge in April 2010, in exchange for the State’s recommendation that adjudication be deferred. Pursuant to the plea agreement, the trial court deferred adjudication and placed Smith on community supervision for a period of ten years. In November 2012, the State filed a motion to proceed with an adjudication of guilt, alleging Smith violated various conditions of her community supervision. At the hearing on the State’s motion to proceed, Smith testified she had not met the financial

obligations required by her conditions of probation and that she had used illegal drugs in violation of her probation. At the conclusion of the hearing, the trial court adjudicated Smith guilty and sentenced her to five years in prison.

Smith's court-appointed appellate attorney filed a motion to withdraw and a brief in which he raises no arguable points of error and concludes this appeal is 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). Smith was provided a copy of the brief and motion to withdraw and was informed of her right to review the record and file her own brief. Smith has not done so.

After reviewing the record and counsel's brief we find no reversible error and agree with counsel the appeal is 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 Smith's attorney and affirm the trial court's judgment. *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.).¹

Luz Elena D. Chapa, Justice

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¹ No substitute counsel will be appointed. Should Smith wish to seek further review of this case by the Texas Court of Criminal Appeals, she 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.