



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

**MEMORANDUM OPINION**

No. 04-15-00801-CR

Casey L. **MULLER**,  
Appellant

v.

The **STATE** of Texas,  
Appellee

From the 144th Judicial District Court, Bexar County, Texas  
Trial Court No. 2012CR7483  
Honorable Lorina I. Rummel, Judge Presiding

Opinion by: Patricia O. Alvarez, Justice

Sitting: Patricia O. Alvarez, Justice  
Luz Elena D. Chapa, Justice  
Jason Pulliam, Justice

Delivered and Filed: October 19, 2016

**AFFIRMED**

Appellant Casey L. Muller entered a plea of guilty to felony driving while intoxicated, alleged to have been committed on June 23, 2012. On December 18, 2012, Muller was sentenced to five years' confinement in the Texas Department of Criminal Justice, suspended and probated for a term of five years, and assessed a \$1,200 fine.

On December 12, 2012, the State filed a motion to revoke probation based on several violations. On July 24, 2015, the State filed its First Amended Motion to Revoke Probation alleging Muller violated numbers 1, 2, 5, and 9B of his conditions of probation.

- Condition No. 1: Neither commit nor be convicted of any offense against the Laws of the State of Texas; or any other State or of the United States of America.
- Condition No. 2: Avoid injurious or vicious habits and abstain from the illegal use of controlled substances, dangerous drugs, nor use alcoholic beverages; submit to drug testing or as directed by the Court/Court Officer/Supervision Officer and pay a one[-]time urinalysis fee of \$20.00 ninety (90) days after being granted community supervision. An additional fee per urinalysis test will be charged by the Provider conducting the test.
- Condition No. 5: Beginning October 18, 2012 report to the Supervision Officer as directed by the Court/Supervision Officer and obey all rules and regulations of the Community Supervision and Corrections Department. You will conduct yourself in a proper and orderly manner during any office visit, field visit, or any other contact with any Supervision Officer or employee of the Bexar County Community Supervision and Corrections Department.
- Condition No. 9B: If you are arrested notify the Supervision Officer within 48 hours. If you are released from jail report to the Supervision Officer the next working day.

The matter was called for trial on December 3, 2015; Muller entered a plea of true to condition number 5, specifically that he failed to report for the months of September through December of 2013, and January through June of 2015. As part of the plea agreement, the State waived the remaining alleged probation violations. The trial court specifically provided the following admonishment:

- Trial Court: In regards to that violation of Condition No. 5, sir, do you understand that by pleading true and by pleading true alone, this Court can find that is, in fact, true, can revoke your supervision, and can sentence you today?
- Muller: Yes.
- Trial Court: All right. Do you still wish to plead true?
- Muller: Yes.

The trial court granted the State's motion to revoke Muller's probation and assessed punishment at two years' confinement, with credit for time served. This appeal ensued.

**COURT-APPOINTED APPELLATE COUNSEL'S *ANDERS* BRIEF**

Muller's court-appointed appellate attorney filed a brief containing a professional evaluation of the record in accordance with *Anders v. California*, 386 U.S. 738 (1967); counsel also filed a motion to withdraw. In appellate counsel's brief, he recites the relevant facts with citations to the record, analyzes the record with respect to the evidence supporting the conditions the trial court found Muller to have violated, and accompanies the analysis with relevant legal authorities. Counsel concludes the appeal is frivolous and without merit. *See Nichols v. State*, 954 S.W.2d 83, 85 (Tex. App.—San Antonio 1997, no pet.).

We conclude the brief meets the *Anders* requirements. *See Anders*, 386 U.S. at 744; *see also High v. State*, 573 S.W.2d 807, 813 (Tex. Crim. App. [Panel Op.] 1978); *Gainous v. State*, 436 S.W.2d 137, 138 (Tex. Crim. App. 1969). Counsel provided Muller with copies of the brief and counsel's motion to withdraw, and informed Muller of his right to review the record and file a pro se brief. *See Nichols*, 954 S.W.2d at 85–86; *see also Bruns v. State*, 924 S.W.2d 176, 177 n.1 (Tex. App.—San Antonio 1996, no pet.). This court also advised Muller of his right to request a copy of the record and file a brief. *See Kelly v. State*, 436 S.W.3d 313, 319–20 (Tex. Crim. App. 2014). No additional briefing was filed in this court.

**CONCLUSION**

Having reviewed the entire record and court-appointed counsel's *Anders* brief, we agree with Muller's court-appointed appellate counsel that there are no arguable grounds for appeal and the appeal is wholly frivolous and without merit. *See Bledsoe v. State*, 178 S.W.3d 824, 826–27 (Tex. Crim. App. 2005). We affirm the trial court's judgment and grant appellate counsel's motion to withdraw. *See Nichols*, 954 S.W.2d at 85–86; *Bruns*, 924 S.W.2d at 177 n.1.

No substitute counsel will be appointed. Should Muller 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 he 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 (1) this opinion or (2) 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 Texas Court of Criminal Appeals. *Id.* R. 68.3(a). Any petition for discretionary review must comply with the requirements of Rule 68.4 of the Texas Rules of Appellate Procedure. *Id.* R. 68.4.

Patricia O. Alvarez, Justice

DO NOT PUBLISH