



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

**MEMORANDUM OPINION**

No. 04-16-00380-CR

Richard **PRIETO**,  
Appellant

v.

The **STATE** of Texas,  
Appellee

From the 144th Judicial District Court, Bexar County, Texas  
Trial Court No. 2012CR9942  
Honorable Lorina I. Rummel, Judge Presiding

Opinion by: Marialyn Barnard, Justice

Sitting: Sandee Bryan Marion, Chief Justice  
Marialyn Barnard, Justice  
Luz Elena D. Chapa, Justice

Delivered and Filed: November 8, 2017

**MOTION TO WITHDRAW GRANTED; AFFIRMED**

Pursuant to a plea bargain agreement, appellant Richard Prieto pled guilty to a charge of indecency with a child by contact. On June 24, 2015, the trial court deferred a finding of guilt, suspended Prieto's sentence, placed him on community supervision for eight years, and assessed a fine of \$1,500. The State later moved to revoke Prieto's community supervision on several grounds. At a hearing on the motion to revoke, appellant pled "not true" to violating any conditions of his community supervision. After the hearing, the trial court revoked Prieto's deferred

adjudication community supervision, adjudicated him guilty, and sentenced him to twenty years' confinement and assessed a fine of \$1,500.

Prieto's court-appointed appellate attorney filed a motion to withdraw and a brief in which he 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). Prieto was provided with a copy of the brief and informed of his right to obtain a copy of the appellate record and file his own brief. *See Kelly v. State*, 436 S.W.3d 313, 319–20 (Tex. Crim. App. 2014); *see also 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.). Appointed counsel also provided Prieto with a form which he could sign, date, and file with this court in order to obtain a copy of the record. *See Kelly*, 436 S.W.3d at 319-20. Prieto filed neither a request for the record nor a *pro se* brief.

After reviewing the record and counsel's brief, we conclude there is 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 Prieto's counsel 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.).

No substitute counsel will be appointed. Should Prieto wish to seek further review of this case in 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 the day our judgment is rendered or the day the last timely motion for rehearing or timely 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. *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.

Marialyn Barnard, Justice

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