



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-16-00552-CR

Christopher Deion **HOUSTON**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 187th Judicial District Court, Bexar County, Texas
Trial Court No. 2015CR8705
Honorable Steve Hilbig, Judge Presiding

Opinion by: Rebeca C. Martinez, Justice

Sitting: Sandee Bryan Marion, Chief Justice
Rebeca C. Martinez, Justice
Irene Rios, Justice

Delivered and Filed: July 12, 2017

AFFIRMED AS MODIFIED; MOTION TO WITHDRAW GRANTED

On April 6, 2016, Christopher Deion Houston pled no contest to the third degree felony offense of assault-family by choking/strangulation and received deferred adjudication community supervision for a term of five years pursuant to a plea bargain. *See* TEX. PENAL CODE ANN. § 22.01(a)(1), (b)(2)(B) (West Supp. 2015). On June 9, 2016, the State filed a motion to adjudicate guilt and revoke his community supervision alleging that Houston violated his community supervision by committing two new offenses, aggravated robbery and possession of marijuana, among other alleged violations. Houston pled “not true” to the alleged violations. After an

evidentiary hearing on July 27, 2016, the trial court found the allegations that Houston violated Condition No. 1 by committing aggravated robbery and possession of marijuana to be “true,” and also found the allegation that he violated Condition No. 2 by using marijuana to be “true.” The trial court found the alleged violations of Condition Nos. 17 (failure to enroll for GED) and 18 (failure to attend anger management class) to be “not true.”¹ The trial court proceeded to find that Houston violated the conditions of his community supervision, and adjudicated him guilty of the underlying assault and revoked his community supervision. The trial court imposed a sentence of eight years’ imprisonment in the Texas Department of Criminal Justice, Institutional Division, and imposed a fine of \$1,500. Houston now appeals.

Houston’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), and a motion to withdraw. In the brief, counsel raises no arguable appellate issues, and concludes this appeal is frivolous and without merit. The brief meets the *Anders* requirements. *See id.*; *see also High v. State*, 573 S.W.2d 807 (Tex. Crim. App. 1978); *Gainous v. State*, 436 S.W.2d 137 (Tex. Crim. App. 1969). As required, counsel provided Houston with a copy of the brief and motion to withdraw, and informed him of his right to receive a copy of the appellate record and to file his own *pro se* brief. *See Kelly v. State*, 436 S.W.3d 313, 319 (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.). Houston did not file a *pro se* brief. After reviewing the record and counsel’s brief, we conclude there is no reversible error and agree

¹ The judgment incorrectly states that Houston pled “true” to all the alleged violations, and incorrectly states that he was found to have violated Condition Nos. 17 and 18, which the trial court found “not true.” We therefore modify the judgment to correct those clerical errors. TEX. R. APP. P. 43.2(b).

with counsel that the appeal is wholly frivolous. *See Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005).

The judgment signed by the trial court on August 11, 2016, however, incorrectly states that Houston pled “true” to all the alleged violations, and incorrectly states that he was found to have violated Condition Nos. 17 and 18, which the trial court found “not true.” We therefore modify the judgment to correct those clerical errors. TEX. R. APP. P. 43.2(b).

Accordingly, the judgment of the trial court is affirmed as modified, and appellate counsel’s motion to withdraw is granted.² *Nichols*, 954 S.W.2d at 86; *Bruns*, 924 S.W.2d at 177.

Rebeca C. Martinez, Justice

DO NOT PUBLISH

² No substitute counsel will be appointed. Should Houston 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 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 this opinion or the last timely motion for rehearing that is overruled by this court. *See* TEX. R. APP. P. 68.2. Any petition for discretionary review must be filed in the Court of Criminal Appeals. *See* TEX. R. APP. P. 68.3. Any petition for discretionary review must comply with the requirements of Rule 68.4 of the Texas Rules of Appellate Procedure. *See* TEX. R. APP. P. 68.4.