



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

**MEMORANDUM OPINION**

No. 04-16-00602-CR

Joe **GUTIERREZ**, Jr.,  
Appellant

v.

The **STATE** of Texas,  
Appellee

From the 81st Judicial District Court, Atascosa County, Texas  
Trial Court No. 14-11-201-CRA  
Honorable Donna S. Rayes, Judge Presiding

Opinion by: Sandee Bryan Marion, Chief Justice

Sitting: Sandee Bryan Marion, Chief Justice  
Karen Angelini, Justice  
Patricia O. Alvarez, Justice

Delivered and Filed: September 13, 2017

**AFFIRMED**

Appellant, Joe Gutierrez, Jr., entered an open plea of nolo contendere to evading arrest while using a motor vehicle, and the trial court assessed punishment at eight years' confinement. Appellant'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 the appeal has no merit. Counsel provided appellant with a copy of the brief and informed him 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.). Appellant did not file a pro se brief.

After reviewing the record and counsel’s brief, we agree the appeal is frivolous and without merit. We affirm the trial court’s judgment, and grant appellate counsel’s request to withdraw. *Nichols*, 954 S.W.2d at 86; *Bruns*, 924 S.W.2d at 177 n.1.<sup>1</sup>

Sandee Bryan Marion, Chief Justice

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<sup>1</sup> No substitute counsel will be appointed. Should appellant wish to seek further review of this case by the Texas Court of Criminal Appeals, appellant 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 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.