



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-16-00643-CR

Ervin **JACKSON**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 144th Judicial District Court, Bexar County, Texas
Trial Court No. 2013CR0869
Honorable Lorina I. Rummel, Judge Presiding

Opinion by: Patricia O. Alvarez, Justice

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

Delivered and Filed: November 15, 2017

AFFIRMED

On January 17, 2013, Appellant Ervin Jackson entered a plea of no contest to one count of assault-family-choking/strangulation, alleged to have occurred on October 6, 2012. Jackson was sentenced to three years' deferred adjudication and a \$1,500.00 fine.

On March 28, 2013, the State filed its first motion to adjudicate alleging multiple violations including Jackson's failure to report to his probation officer, pay court-ordered fines and fees, and failure to attend court ordered classes. The State withdrew the motion approximately one month later.

On January 16, 2015, the State filed its second motion to adjudicate alleging Jackson committed possession of marijuana on January 12, 2015, and failed to pay the court ordered fines and fees. Jackson entered a plea of true to the possession of marijuana; and, the State waived and abandoned the other violation and dismissed the new marijuana charge. On November 5, 2015, the trial court denied the State's motion to adjudicate, and extended the probationary period for one year. The trial court also continued added conditions of probation, including sixty days in the Bexar County Jail and weekly urinalysis for sixty days thereafter. The trial court granted Jackson's request for work release during the incarceration.

On June 14, 2016, the State filed its second motion to revoke community supervision alleging that Jackson: (1) committed assault on June 7, 2016; (2) failed to submit to drug testing for March, April, and May, 2016; (3) failed to pay court ordered fines and fees; (4) violated a no-contact order; and (5) failed to register for court ordered counseling. On September 12, 2016, the State waived and abandoned the assault allegations and violation of the no-contact order; Jackson entered a plea of true to the remaining violations. The trial court adjudicated Jackson's guilt and assessed punishment at five years' confinement in the Texas Department of Criminal Justice and a \$1,500.00 fine.

This appeal ensued.

COURT-APPOINTED APPELLATE COUNSEL'S *ANDERS* BRIEF

Jackson'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 allegations and the evidence presented at trial, 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 Jackson with copies of the brief and counsel's motion to withdraw, and informed Jackson 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 Jackson 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 Jackson'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 judgments 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 Jackson 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