



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

Nos. 04-16-00775-CR & 04-16-00776-CR

Samuel Chacon **MENCHACA**, Jr.,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 216th Judicial District Court, Kerr County, Texas
Trial Court Nos. A15427 & A15428
Honorable N. Keith Williams, Judge Presiding

Opinion by: Sandee Bryan Marion, Chief Justice

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

Delivered and Filed: December 13, 2017

AFFIRMED

Samuel Chacon Menchaca, Jr. entered an open plea of guilty to two offenses of delivery of a controlled substance in a drug free zone. Menchaca also pled true to two enhancement paragraphs in the indictments. The trial court sentenced Menchaca as a habitual offender to thirty-five years' imprisonment for each offense with the sentences to run concurrently.

Menchaca'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 Menchaca 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.). Menchaca did not file a *pro se* brief.

After reviewing the record and counsel's brief, we agree that the appeal is frivolous and without merit. The judgment of the trial court is affirmed. Appellate counsel's request to withdraw is granted. *Nichols*, 954 S.W.2d at 86; *Bruns*, 924 S.W.2d at 177 n.1. No substitute counsel will be appointed. Should Menchaca wish to seek further review of this case by the Texas Court of Criminal Appeals, Menchaca must either retain an attorney to file a petition for discretionary review or Menchaca must 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.

Sandee Bryan Marion, Chief Justice

DO NOT PUBLISH