



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-16-00798-CR

Sarah **MARTINEZ**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 399th Judicial District Court, Bexar County, Texas
Trial Court No. 2015-CR-5767
Honorable Ray J. Olivarri, 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 22, 2017

AFFIRMED

On September 1, 2015, Appellant Sarah Martinez entered a plea of nolo contendere to one count of felony forgery by check, alleged to have been committed on January 7, 2015. Jackson was sentenced to two years' confinement in the State Jail Facility of the Texas Department of Criminal Justice, suspended and probated for a term of eighteen months and a \$1,000.00 fine.

Martinez's conditions of probation were modified on three different occasions, all of which were related to her continued use of illegal drugs. On October 27, 2015, Martinez was ordered to submit to the Treatment Alternative to Incarceration Program. On February 23, 2016, Martinez

was ordered to submit to an inpatient residential treatment program; and on August 30, 2016, Martinez was ordered to participate in a Mental Health Initiative Program.

On November 3, 2016, the State filed a motion to revoke Martinez's probation based on a new offense, possession of a controlled substance, alleged to have been committed on October 29, 2016. On November 14, 2016, Martinez entered a plea of true to the probation violation and the State dismissed the new offense indictment. The trial court revoked Martinez's probation and sentenced Martinez to two years' confinement in the State Jail Facility of the Texas Department of Criminal Justice.

On March 14, 2017, this matter was abated to the trial court for clarification of time credit owed to Martinez. On March 20, 2017, the trial court ordered Martinez's judgment reflect the correct amount of time Martinez had previously served. The case was reinstated on our docket on March 27, 2017.

This appeal ensued.

COURT-APPOINTED APPELLATE COUNSEL'S *ANDERS* BRIEF

Martinez'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 met 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 Martinez with a copy of the brief and

counsel's motion to withdraw, and informed Martinez of her 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 Martinez of her 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 Martinez'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 judgment 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 Martinez wish to seek further review of this case by the Texas Court of Criminal Appeals, she 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