



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-17-00312-CR

Saturnino **GUTIERREZ JR.**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 25th Judicial District Court, Guadalupe County, Texas
Trial Court No. 15-0462-CR-A
Honorable William Old, Judge Presiding

Opinion by: Irene Rios, Justice

Sitting: Karen Angelini, Justice
Luz Elena D. Chapa, Justice
Irene Rios, Justice

Delivered and Filed: September 12, 2018

AFFIRMED

A jury convicted Saturnino Gutierrez, Jr. of the offense of continuous sexual abuse of a child, and the trial court assessed punishment at life imprisonment. Because we conclude this appeal is frivolous and without merit, we affirm the trial court's judgment.

Gutierrez's court-appointed appellate counsel filed a brief with this court representing that she conducted a professional evaluation of the record and determined there are no arguable grounds to be advanced on Gutierrez's behalf. *See Anders v. California*, 386 U.S. 738, 744 (1967). With citations to the record and legal authority, counsel explains why she concluded the appeal is

without merit. Counsel states she reviewed the indictment and evidence adduced at trial, as well as the record of the revocation hearing. The brief meets the requirements of *Anders* as it presents a professional evaluation showing why there is no basis to advance an appeal. *Id.* at 744–45; *Stafford v. State*, 813 S.W.2d 503, 509–10, 510 n.3 (Tex. Crim. App. 1991); *High v. State*, 573 S.W.2d 807, 812–13 (Tex. Crim. App. [Panel Op.] 1978).

Counsel provided Gutierrez with copies of counsel’s *Anders* brief and motion to withdraw and informed Gutierrez of his right to review the record and file his own brief. *See Kelly v. State*, 436 S.W.3d 313, 319–20 (Tex. Crim. App. 2014). Additionally, counsel advised Gutierrez to file a motion in this court if he wished to review the appellate record and enclosed a form motion for that purpose. *See id.*; *Nichols v. State*, 954 S.W.2d 83, 85–86 (Tex. App.—San Antonio 1997, no pet.) (per curiam); *Bruns v. State*, 924 S.W.2d 176, 177 n.1 (Tex. App.—San Antonio 1996, no pet.). Thereafter, we set deadlines for Gutierrez to file any motion for the record and any *pro se* brief. Although Gutierrez requested access to the appellate record, Gutierrez did not file a *pro se* brief.

After reviewing the record and counsel’s *Anders* brief, we conclude there is no reversible error and agree this appeal is frivolous and without merit. Accordingly, the judgment of the trial court is affirmed, and appellate counsel’s request to withdraw is granted.¹ *Nichols*, 954 S.W.2d at 86; *Bruns*, 924 S.W.2d at 177 n.1.

Irene Rios, Justice

DO NOT PUBLISH

¹ No substitute counsel will be appointed. Should Gutierrez wish to seek further review of this case by the Texas Court of Criminal Appeals, Gutierrez must either retain an attorney to file a petition for discretionary review or Gutierrez 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.