



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-17-00619-CR

Alonzo **WHITTINGTON**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 290th Judicial District Court, Bexar County, Texas
Trial Court No. 2017CR1009
Honorable Melisa Skinner, Judge Presiding

Opinion by: Luz Elena D. Chapa, Justice

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

Delivered and Filed: September 12, 2018

MOTION TO WITHDRAW GRANTED; AFFIRMED

Alonzo August Whittington Jr. pled no contest to a charge of possession of one to four grams of methamphetamines, in exchange for the State's recommendation that adjudication be deferred. Pursuant to the plea agreement, the trial court deferred adjudication and placed Whittington on community supervision for a period of four years. The State later filed a motion to adjudicate guilt, alleging Whittington violated various conditions of his community supervision. Whittington pled true to the allegation that he violated condition one of his community supervision by committing the offense of possession of marijuana. The trial court adjudicated Whittington

guilty and sentenced him to two years in prison and a \$1,200 fine. Whittington timely appealed the judgment.

Whittington's court-appointed appellate attorney filed a motion to withdraw and a brief in which she concludes this appeal is frivolous and without merit. The brief demonstrates a professional evaluation of the record and meets the requirements of *Anders v. California*, 386 U.S. 738 (1967), *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. 1978), and *Gainous v. State*, 436 S.W.2d 137 (Tex. Crim. App. 1969). Counsel sent copies of the brief and the motion to withdraw to Whittington and informed him of his rights in compliance with the requirements of *Kelly v. State*, 436 S.W.3d 313 (2014). This court set a deadline for Whittington to file a pro se brief. No pro se brief was filed.

After reviewing the record and counsel's brief, we find no arguable grounds for appeal exist and the appeal is wholly frivolous. *See Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005). We therefore grant the motion to withdraw filed by Whittington's counsel and we affirm the trial court's judgment. *See id.*; *Nichols v. State*, 954 S.W.2d 83, 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.).¹

Luz Elena D. Chapa, Justice

DO NOT PUBLISH

¹ No substitute counsel will be appointed. Should Whittington 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 file a pro se petition for discretionary review. Any petition for discretionary review must be filed within thirty days after either this opinion is rendered or 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 Court of Criminal Appeals. *See id.* R. 68.3. Any petition for discretionary review must comply with the requirements of rule 68.4 of the Texas Rules of Appellate Procedure. *See id.* R. 68.4.