



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-18-00067-CR

Tommy LUNA,
Appellant

v.

The STATE of Texas,
Appellee

From the 49th Judicial District Court, Webb County, Texas
Trial Court No. 2016-CRN-000986-D1
Honorable Jose A. Lopez, Judge Presiding¹

Opinion by: Beth Watkins, Justice

Sitting: Sandee Bryan Marion, Chief Justice
Luz Elena D. Chapa, Justice
Beth Watkins, Justice

Delivered and Filed: July 31, 2019

MOTION TO WITHDRAW GRANTED; AFFIRMED

A jury convicted Tommy Luna of first-degree murder, sentenced him to thirty years' imprisonment, and ordered him to pay a \$5,000 fine. Luna appealed.

Luna'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 Luna with a copy of the brief and informed him of his right

¹ The Honorable Jose A. Lopez is the presiding judge of the 49th Judicial District Court, Webb County, Texas. The Honorable Susan Reed, a visiting judge, presided over the proceedings in this case.

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.). Luna filed a pro se brief, and the State filed a response.

After reviewing the record and briefs, we agree 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 Luna wish to seek further review of this case by the Texas Court of Criminal Appeals, Luna must either retain an attorney to file a petition for discretionary review or Luna 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 id.* R. 68.3. Any petition for discretionary review should comply with the requirements of Rule 68.4 of the Texas Rules of Appellate Procedure. *See id.* R. 68.4.

Beth Watkins, Justice

DO NOT PUBLISH