



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-19-00561-CR

Frank Lee **OLIVA**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 218th Judicial District Court, Atascosa County, Texas
Trial Court No. 17-08-0432-CRA
Honorable Russell Wilson, Judge Presiding

Opinion by: Irene Rios, Justice

Sitting: Rebeca C. Martinez, Justice
Irene Rios, Justice
Beth Watkins, Justice

Delivered and Filed: June 3, 2020

AFFIRMED; MOTION TO WITHDRAW GRANTED

Appellant Frank Oliva challenges the trial court's judgment revoking his community supervision and adjudicating him guilty. Because we conclude this appeal is frivolous and without merit, we affirm the trial court's judgment and grant counsel's motion to withdraw.

Pursuant to a plea bargain agreement, Oliva pleaded guilty to the offense of evading arrest. On August 20, 2018, the trial court deferred the adjudication of guilt, placed Oliva on community supervision for a period of two years, and assessed a \$1,000.00 fine. On February 19, 2019, the State filed a Motion to Enter Adjudication of Guilt and Revoke Community Supervision. On July

29, 2019, the trial court revoked Oliva's community supervision and entered an adjudication of guilt. The trial court assessed punishment at four years' imprisonment with a \$1,000.00 fine.

Oliva's court-appointed appellate counsel filed a brief with this court stating that he conducted a professional evaluation of the record and determined there are no arguable grounds to be advanced on Oliva's behalf. *See Anders v. California*, 386 U.S. 738, 744 (1967). With citations to the record and legal authority, counsel explains why he concluded the appeal is without merit. Counsel states he 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 Oliva with copies of counsel's *Anders* brief and motion to withdraw and informed Oliva 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 provided Oliva with a copy of the appellate record. *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 Oliva to file any *pro se* brief. Oliva 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 Oliva wish to seek further review of this case by the Texas Court of Criminal Appeals, Oliva must either retain an attorney to file a petition for discretionary review or Oliva 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.