



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-22-00053-CR

Santiago **RODRIGUEZ** Jr.,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 25th Judicial District Court, Guadalupe County, Texas
Trial Court No. 18-0863-CR-C
Honorable Daniel H. Mills, Judge Presiding

Opinion by: Patricia O. Alvarez, Justice

Sitting: Rebeca C. Martinez, Chief Justice
Patricia O. Alvarez, Justice
Liza A. Rodriguez, Justice

Delivered and Filed: June 28, 2023

AFFIRMED; MOTION TO WITHDRAW GRANTED

Appellant Santiago Rodriguez Jr. was charged with one count of driving while intoxicated, 3rd or more, a felony. The charge was tried to a jury, which found him guilty. The trial court assessed punishment at confinement in the Texas Department of Criminal Justice—Institutional Division for a period of fifty years. Rodriguez appeals his conviction.

Having reviewed counsel's *Anders* brief, Rodriguez's pro se brief, the State's response to the pro se brief, and the record, we affirm the trial court's judgment.

COURT-APPOINTED APPELLATE COUNSEL'S *ANDERS* BRIEF

Rodriguez's court-appointed appellate counsel 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. The brief recites the relevant facts with citations to the record.

Counsel reviewed the appellate record and concluded that "there are no arguable issues on appeal concerning the trial court's denial of appellant's motions to suppress, the jury's guilty verdict, or the length of sentence." *See Nichols v. State*, 954 S.W.2d 83, 85 (Tex. App.—San Antonio 1997, no pet.).

We conclude appellate counsel's brief meets 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 Rodriguez with a copy of the brief and counsel's motion to withdraw, and informed Rodriguez of his 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.). Counsel advised Rodriguez of his right to request a copy of the record and provided Rodriguez with a motion to request a copy of the record. *See Kelly v. State*, 436 S.W.3d 313, 319–20 (Tex. Crim. App. 2014).

APPELLANT'S PRO SE BRIEF, STATE'S RESPONSE

Rodriguez requested a copy of the appellate record, which this court provided to him, and he filed a pro se brief. Rodriguez's pro se brief raises three issues: (1) the trial court committed reversible error by removing the prior DWI convictions stipulation from the jury charge, (2) the omitted stipulation deprived the trial court of subject matter jurisdiction, and (3) the trial court committed reversible error by excluding some testimony from his expert witness.

The State's brief rebutted each of Rodriguez's putative issues.

CONCLUSION

Having reviewed the record, the *Anders* brief, Rodriguez's pro se brief, and the State's brief, we conclude 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 we 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.

FURTHER REVIEW

No substitute counsel will be appointed. Should Rodriguez wish to seek further review of this case by the Court of Criminal Appeals, he must file a petition for discretionary review either through a retained attorney or by representing himself. 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 Court of Criminal Appeals. TEX. R. APP. P. 68.3(a). Any petition for discretionary review must comply with the requirements of Rule 68.4 of the Texas Rules of Appellate Procedure. TEX. R. APP. P. 68.4.

Patricia O. Alvarez, Justice

Do not publish