In The

Court of Appeals

Ninth District of Texas at Beaumont

NO. 09-09-00482-CR

LATASHA ETRANTHA BROWN, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 252nd District Court
Jefferson County, Texas
Trial Cause No. 08-02774

MEMORANDUM OPINION

LaTasha Etrantha Brown appeals from the revocation of her unadjudicated community supervision. Pursuant to a plea bargain agreement, Brown pleaded guilty to the state jail felony offense of unauthorized use of a vehicle. *See* TEX. PEN. CODE ANN. § 31.07 (Vernon 2003). The trial court concluded the evidence was sufficient to find Brown guilty, but deferred further proceedings and placed her on community supervision for three years. The State subsequently filed a motion to revoke Brown's community supervision. At the revocation hearing, she pleaded "true" to five violations of the

community supervision order. The trial court found that Brown violated those conditions, adjudicated her guilty of unauthorized use of a vehicle, and assessed punishment at two years of confinement in a state jail facility. A notice of appeal was filed.

Brown's appellate counsel filed an *Anders* brief in which he concluded there were no arguable grounds of error. *See Anders v. California*, 386 U.S. 738, 741-42, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967). Brown subsequently filed a *pro se* brief in which she presented issues challenging the judgment revoking her probation, adjudicating her guilt, and sentencing her to two years in a state facility. In her *pro se* brief, Brown presented various reasons why she did not comply with some of the community supervision requirements. She also asserted she did not authorize the appeal, received ineffective assistance of counsel, did not receive credit for time spent in jail prior to her plea, and received a sentence that was too harsh.

The Court of Criminal Appeals has held that we need not address the merits of issues raised in *Anders* briefs or *pro se* responses. *Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005). As the Court explained in *Bledsoe*, an appellate court may determine either (1) "that the appeal is wholly frivolous and issue an opinion explaining that it has reviewed the record and finds no reversible error"; or (2) "that arguable grounds for appeal exist and remand the cause to the trial court so that new counsel may be appointed to brief the issues." *Id*. In *Garner v. State*, 300 S.W.3d 763 (Tex. Crim. App. 2009), the Court held that "when a court of appeals finds no issues of arguable merit

in an *Anders* brief, it may explain why the issues have no arguable merit." *Garner*, 300 S.W.3d at 764. "The provision of analysis [by the appellate court] does not necessarily imply that there is arguable merit" that would necessitate appointment of counsel to brief the issues. *Id*. at 767.

We have reviewed the record in this case, and we determine that this appeal is wholly frivolous. We have independently examined the clerk's record and the reporter's record, and we agree that no arguable issues support an appeal. *See id*. at 766-67. "An appellate court may not consider factual assertions that are outside the record . . . ." *Whitehead v. State*, 130 S.W.3d 866, 872 (Tex. Crim. App. 2004). We find it unnecessary to order appointment of new counsel to re-brief the appeal. *Compare Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991). We affirm the trial court's judgment.[1]

AFFIRMED.

_____

DAVID GAULTNEY
Justice

Submitted on July 2, 2010
Opinion Delivered July 7, 2010
Do Not Publish

Before McKeithen, C.J., Gaultney and Kreger, JJ.

[1]Appellant may challenge our decision in this case by filing a petition for discretionary review. *See* TEX. R. APP. P. 68.