

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-10-00004-CR

BRIAN KEITH DREW, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the Criminal District Court
Jefferson County, Texas
Trial Cause No. 09-05644**

MEMORANDUM OPINION

Appellant, Brian Keith Drew, was convicted by a jury of possession of a controlled substance, namely phencyclidine (PCP). Tex. Health & Safety Code Ann. § 481.115 (West 2010). The trial court assessed punishment at thirty years imprisonment, as a habitual offender. Tex. Penal Code Ann. § 12.42 (West Supp. 2010).¹ Drew filed a timely notice of appeal.

¹ We cite to the current version of section 481.115 of the Texas Health & Safety Code and section 12.42 of the Texas Penal Code, even though the Legislature amended these statutes in 2008 and 2009, because the subsequent amendments did not change the pertinent parts upon which this conviction relies.

Drew's appellate counsel filed an *Anders* brief. *See Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967); *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. 1978). Counsel's brief presents his professional evaluation of the record that there are no arguable grounds to be advanced in this appeal. Counsel provided Drew with a copy of the brief. In response, Drew filed a pro se brief, raising four issues on appeal.

The appellate court 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). In these circumstances, we "may determine that the appeal is wholly frivolous and issue an opinion explaining that [the appellate court] has reviewed the record and finds no reversible error. Or, [we] may determine 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.* (citations omitted).

We have reviewed the clerk's record and the reporter's record, and we agree with Drew's appellate counsel that no arguable issues support an appeal. Therefore, we find it unnecessary to order appointment of new counsel to re-brief Drew's appeal. *See id.*; compare *Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991). We affirm the trial court's judgment.²

AFFIRMED.

² Drew may challenge our decision in this case by filing a petition for discretionary review. Tex. R. App. P. 68.

CHARLES KREGER
Justice

Submitted on November 18, 2010
Opinion Delivered January 19, 2011
Do not publish

Before Gaultney, Kreger, and Horton, JJ.