

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-10-00356-CR

JESSE ADAM BRUMLEY, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 252nd District Court
Jefferson County, Texas
Trial Cause No. 99427

MEMORANDUM OPINION

After entering into a plea-bargain agreement, Jesse Adam Brumley pled no contest to felony driving while intoxicated. *See* Tex. Penal Code Ann. §§ 49.04 (West 2003), 49.09(b) (West Supp. 2010).¹ The trial court found Brumley guilty, assessed his punishment at ten years in prison, suspended the imposition of his sentence, placed Brumley on community supervision for ten years, and assessed a \$1,000 fine. The State

¹We cite to the current version of section 49.09 even though the statute was amended in 2007, because the 2007 amendment does not affect the outcome of this appeal.

subsequently filed a motion to revoke Brumley's community supervision. The motion alleged that Brumley committed four violations of the terms that had been established for his community supervision. Brumley pled "true" to all four violations. The trial court found the evidence sufficient to find all four of the counts to be true, revoked Brumley's community supervision, and assessed his punishment at ten years in prison. The trial court ordered Brumley's ten year sentence in this case, which is cause number 99427, to run concurrently with Brumley's other sentences in cause numbers 99425, 99426, and 97980.

Brumley's appellate counsel filed a brief presenting counsel's professional evaluation of the record and concluding that the appeal is frivolous. *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). Brumley filed a *pro se* brief in response. 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). Rather, 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.*

Having reviewed the clerk's record, the reporter's record, counsel's brief, and Brumley's *pro se* brief, we agree that Brumley's appeal is frivolous. *See id.* Therefore,

we find it unnecessary to order appointment of new counsel to re-brief Brumley'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.

HOLLIS HORTON
Justice

Submitted on April 11, 2011
Opinion Delivered May 11, 2011
Do Not Publish

Before Gaultney, Kreger, and Horton, JJ.

²Brumley may challenge our decision in this case by filing a petition for discretionary review. *See* Tex. R. App. P. 68. Additionally, relief in appropriate cases for claims of ineffective assistance of counsel is generally available through an application for a writ of habeas corpus. *See Thompson v. State*, 9 S.W.3d 808, 814-15 (Tex. Crim. App. 1999).