

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-10-00388-CR

SEAN MICHAEL LAKEY, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 252nd District Court
Jefferson County, Texas
Trial Cause No. 09-05482

MEMORANDUM OPINION

Appellant Sean Michael Lakey was indicted for burglary of a habitation. Lakey pleaded guilty pursuant to a plea bargain agreement. The trial court found the evidence sufficient to find Lakey guilty, but deferred further proceedings, placed Lakey on community supervision for eight years, and assessed a fine of \$500. The State subsequently filed a motion to revoke Lakey's unadjudicated community supervision. Lakey pleaded "true" to two of the alleged violations of the terms of his community supervision. The trial court found that Lakey violated the conditions of his community

supervision, found Lakey guilty of burglary of a habitation, and assessed punishment at fifteen years of confinement. Lakey then filed this appeal.

Lakey's appellate counsel filed a brief that presents counsel's professional evaluation of the record and concludes 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). Lakey 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.*

We have determined 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.* Therefore, 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.

¹ Appellant may challenge our decision in this case by filing a petition for discretionary review. *See* Tex. R. App. P. 68.

STEVE McKEITHEN
Chief Justice

Submitted on March 2, 2011
Opinion Delivered March 9, 2011
Do Not Publish

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