

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-10-00448-CR
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RACHEL LEIGH EAKINS, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 359th District Court
Montgomery County, Texas
Trial Cause Nos. 09-08-07946-CR and 07-08-08692-CR

MEMORANDUM OPINION

Appellant Rachel Leigh Eakins¹ appeals her convictions for fraudulent possession of a controlled substance by prescription and driving while intoxicated, third or more offense. We affirm the trial court's judgments.

Eakins entered a plea of guilty to both offenses. The trial court found Eakins guilty of fraudulent possession of a controlled substance by prescription, a third degree felony, and sentenced her to ten years of confinement. The trial court further found

¹ Rachel Leigh Eakins is also known as Rachel Hoover.

Eakins guilty of driving while intoxicated, a third degree felony, and sentenced her to ten years of confinement to run concurrently with her fraudulent possession sentence.

Eakins'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 and concludes there are no arguable grounds to be advanced on appeal. Counsel provided Eakins with a copy of this brief. We granted an extension of time for appellant to file a pro se brief. We received no response from Eakins.

In response to an inquiry concerning attorney's fees of \$3479 in the trial court's judgment in Cause No. 07-08-08692-CR, the State has informed this Court that they agree to a redaction from the judgment of that amount since the record does not reflect that the trial court addressed Eakins's ability to pay at the sentencing hearing. *See Tex. Code Crim. Proc. Ann. art. 26.05(g)* (West Supp. 2010); *Roberts v. State*, 327 S.W.3d 880, 883-84 (Tex. App.—Beaumont 2010, no pet.).

We have independently reviewed the clerk's record and the reporter's record, and we agree with Eakins's appellate counsel that no arguable issues support an appeal. Therefore, we find it unnecessary to order appointment of new counsel to re-brief Eakins's appeals. *See Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005); *compare Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991). We modify the

judgment to delete the portion requiring that Eakins pay attorney's fees of \$3479. In all other respects, the judgments are affirmed.²

AFFIRMED AS MODIFIED.

CHARLES KREGER
Justice

Submitted on August 22, 2011
Opinion Delivered August 31, 2011
Do not publish

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

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