

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-16-00174-CR

BARRON WASHINGTON, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 221st District Court
Montgomery County, Texas
Trial Cause No. 15-10-11054-CR**

MEMORANDUM OPINION

Appellant, Barron Washington, was indicted for possession of a controlled substance, a second degree felony enhanced for punishment as a first degree felony based on Washington's prior convictions for robbery, burglary of a building, and unlawful possession of a firearm by a felon. *See* Tex. Health & Safety Code Ann. §§ 481.102(3)(D), 481.115(d) (West 2017); Tex. Penal Code Ann. § 12.42(b) (West Supp. 2016). On May 2, 2016, Washington pled not guilty to the charge, and the case proceeded to a jury trial. At the conclusion of the guilt-innocence phase, the jury

found Washington guilty of the offense as charged. The trial court accepted the jury's verdict and dismissed the jury, then proceeded to the punishment phase of the trial.¹ At the commencement of the punishment phase, Washington pled not true to the enhancement paragraphs contained in the indictment. The trial court heard evidence regarding the prior felony convictions, found the enhancement paragraphs true, and sentenced Washington to thirty-five years of confinement. Washington timely filed a notice of appeal.

Washington'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 (1967); *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. [Panel Op.] 1978). On November 30, 2016, we notified Washington that a *pro se* brief was due on or before January 30, 2017, and on January 17, 2017, Washington filed a *pro se* brief. In response, the State filed a letter waiving its opportunity to respond to Washington's *pro se* brief, but reserving the right to file a responsive brief in the event that this court remands the matter to the trial court for appointment of new counsel.

¹ Punishment was assessed by the court pursuant to the written election filed by Washington's counsel shortly before jury selection began.

We have reviewed Washington's *pro se* brief and independently examined the entire appellate record in this matter. We conclude that no reversible error exists, no arguable issues support an appeal, and this appeal is wholly frivolous. Accordingly, we do not address the merits of issues raised in the *Anders* brief or Washington's *pro se* response. *See Bledsoe v. State*, 178 S.W.3d 824, 826–27 (Tex. Crim. App. 2005). Nor do we find it necessary to order appointment of new counsel to re-brief the appeal. *Cf. Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991). We affirm the trial court's judgment.²

AFFIRMED.

CHARLES KREGER
Justice

Submitted on February 14, 2017
Opinion Delivered September 20, 2017
Do not publish

Before Kreger, Horton, and Johnson, JJ.

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