

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-16-00227-CR

JAYSON WAYNE BELDEN, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 411th District Court
Polk County, Texas
Trial Cause No. 24289

MEMORANDUM OPINION

A grand jury indicted Jayson Wayne Belden for driving while intoxicated (“DWI”), a misdemeanor enhanced to a third-degree felony due to two previous DWI convictions. *See* Tex. Penal Code §§ 49.04, 49.09(b) (West Supp. 2016). On February 26, 2016, Belden waived his right to a jury trial, pleaded guilty to the offense as charged, as well as true to the prior convictions alleged for enhancement purposes. The trial court, having found that Belden was competent and that his plea was made freely and voluntarily, accepted the plea and found Belden guilty. Belden

waived his right to a presentence investigation, and the court reset the matter for sentencing. On May 17, 2016, the trial court heard evidence and sentenced Belden to ten years of confinement. On the same day, the trial court certified Belden's right to appeal as to sentencing. On June 17, 2016, Belden filed a notice of appeal.¹

Belden's appellate counsel subsequently 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 September 13, 2016, we notified Belden that he could file a *pro se* brief on or before November 14, 2016. We received no additional brief from him.

We have independently examined the entire appellate record in this matter, and we agree that no arguable issues support an appeal. We have determined that this appeal is wholly frivolous. Therefore, we find it unnecessary 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

¹ Belden filed his notice *pro se*; however, there is no indication in the record before us that Belden's trial counsel withdrew or was discharged before that time. Upon presentation of the *pro se* notice, the trial court appointed a new attorney to serve as Belden's counsel for this appeal.

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

AFFIRMED.

CHARLES KREGER
Justice

Submitted on December 29, 2016
Opinion Delivered September 20, 2017
Do Not Publish

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