

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-16-00335-CR

LANCE JERROD GANS, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 252nd District Court
Jefferson County, Texas
Trial Cause No. 16-24192

MEMORANDUM OPINION

On February 3, 2016, Lance Jerrod Gans (Gans) was indicted for deadly conduct. *See* Tex. Penal Code Ann. § 22.05(b) (West 2011). On April 11, 2016, Gans pleaded guilty to deadly conduct pursuant to a plea agreement, and the trial court deferred adjudication and placed Gans on community supervision for seven years and assessed a \$500.00 fine. The State filed a motion to revoke alleging that Gans had violated one of the conditions of his community supervision. Gans pleaded “true” to the alleged violation. After a hearing on September 2, 2016, the trial court

found the evidence was sufficient that Gans had violated a term of his community supervision, and the trial court assessed punishment at confinement for two years.¹ Gans timely filed a notice of appeal.

Gans's appellate counsel filed a brief that presents counsel's professional evaluation of the record and concludes there are no meritorious issues for appeal. *See Anders v. California*, 386 U.S. 738 (1967); *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. 1978). On January 3, 2017, we granted an extension of time for Gans to file a pro se brief. We received no response from Gans.

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 A supplemental clerk's record filed in this appeal includes a "Deferred Adjudication Order of Dismissal" signed by the trial court on February 9, 2017, wherein the trial court states that it is dismissing "the cause[.]" At the time the trial court signed the "Deferred Adjudication Order of Dismissal[.]" the trial court did not have plenary power over the case. The trial court's judgment adjudicating guilt was entered on September 2, 2016. Because Gans did not file a motion for new trial or an arrest of judgment, the trial court's plenary power expired on October 3, 2016. *See Tex. R. App. P. 21.4, 22.3; State v. Aguilera*, 165 S.W.3d 695, 697-98 (Tex. Crim. App. 2005).

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

AFFIRMED.

LEANNE JOHNSON
Justice

Submitted on March 30, 2017
Opinion Delivered April 5, 2017
Do Not Publish

Before Kreger, Horton, and Johnson, JJ.