



**COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH**

NO. 02-16-00449-CR

DUSTIN COLE CLEARMAN

APPELLANT

V.

THE STATE OF TEXAS

STATE

FROM THE 78TH DISTRICT COURT OF WICHITA COUNTY
TRIAL COURT NO. 57,414-B

MEMORANDUM OPINION¹

Appellant Dustin Cole Clearman pleaded guilty to theft of property under \$2,500 with two prior theft convictions, a state-jail felony.² See Tex. Penal Code Ann. § 31.03(e)(4)(D) (West Supp. 2017). The trial court impliedly found him guilty and sentenced him to one year in the state-jail division of the Texas

¹See Tex. R. App. P. 47.4.

²Clearman admitted getting caught stealing an \$8 light from a Walmart.

Department of Criminal Justice.³ Appellant's court-appointed appellate attorney has filed a motion to withdraw as counsel and a brief in support of that motion. Counsel's brief and motion meet the requirements of *Anders v. California* by presenting a professional evaluation of the record demonstrating why there are no arguable grounds for relief. 386 U.S. 738, 87 S. Ct. 1396 (1967); see *In re Schulman*, 252 S.W.3d 403, 406–12 (Tex. Crim. App. 2008) (orig. proceeding) (analyzing the effect of *Anders*). Although Appellant was given an opportunity to file a pro se response to the *Anders* brief, he has not done so, nor has the State filed a brief in response to the *Anders* brief.

After an appellant's court-appointed counsel files a motion to withdraw on the ground that the appeal is frivolous and fulfills the requirements of *Anders*, this court must independently examine the record to see if any arguable ground may be raised on his behalf. See *Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991). We also consider the briefs and any pro se response. See *Schulman*, 252 S.W.3d at 408–09. Only after we conduct our own examination to determine whether counsel has correctly assessed the case may we grant his motion to withdraw. See *Penson v. Ohio*, 488 U.S. 75, 82–83, 109 S. Ct. 346, 351 (1988).

³There is no express guilty finding. The trial court, however, assessed punishment and signed a written judgment. See *Holeman v. State*, No. 06-13-00191-CR, 2014 WL 860336, at *2 (Tex. App.—Texarkana Mar. 4, 2014, no pet.) (mem. op., not designated for publication) (holding that assessing punishment and entering written guilty judgment implied rendition of guilt).

We have carefully reviewed counsel's brief and the record. We agree with counsel that this appeal is wholly frivolous and without merit, and we find nothing in the record that arguably might support the appeal. See *Bledsoe v. State*, 178 S.W.3d 824, 827–28 (Tex. Crim. App. 2005); see also *Meza v. State*, 206 S.W.3d 684, 685 n.6 (Tex. Crim. App. 2006).

Accordingly, we grant counsel's motion to withdraw and affirm the trial court's judgment.

PER CURIAM

PANEL: KERR, WALKER, and MEIER, JJ.

DO NOT PUBLISH
Tex. R. App. P. 47.2(b)

DELIVERED: May 24, 2018