



**In the
Court of Appeals
Second Appellate District of Texas
at Fort Worth**

No. 02-17-00343-CR

BRANDY NICHOLE SMITH, Appellant

v.

THE STATE OF TEXAS

On Appeal from the 43rd District Court
Parker County, Texas
Trial Court No. CR17-0107

Before Sudderth, C.J.; Walker and Kerr, JJ.
Opinion by Chief Justice Sudderth

MEMORANDUM OPINION¹

Appellant Brandy Nichole Smith appeals her conviction of theft with two prior theft convictions, for which she was sentenced to twenty-four months' confinement in state jail and a \$1,000 fine. *See* Tex. Penal Code Ann. § 12.35 (West Supp. 2017) (providing that state jail punishment range is confinement from 180 days to two years and up to a \$10,000 fine), § 31.03(a), (e)(4)(D) (West Supp. 2017) (providing that theft—the unlawful appropriation of property with intent to deprive its owner thereof—is a state jail felony if the stolen property's value is less than \$2,500 and the defendant has been previously convicted two or more times of any grade of theft).

Appellant's court-appointed appellate counsel filed a motion to withdraw as counsel and a brief in support of that motion. *See Anders v. California*, 386 U.S. 738, 744–45, 87 S. Ct. 1396, 1400 (1967). 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. *Id.*, 87 S. Ct. at 1400. Appellant had the opportunity to file a pro se response to the *Anders* brief but has not done so; the State has not filed a brief.

Once an appellant's court-appointed attorney 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. *See Stafford v. State*, 813 S.W.2d 503, 511

¹*See* Tex. R. App. P. 47.4.

(Tex. Crim. App. 1991); *Mays v. State*, 904 S.W.2d 920, 922–23 (Tex. App.—Fort Worth 1995, no pet.). Only then may we grant counsel’s motion to withdraw. *See Penson v. Ohio*, 488 U.S. 75, 82–83, 109 S. Ct. 346, 351 (1988).

We have carefully reviewed the record and counsel’s brief. We agree with counsel that this appeal is wholly frivolous and without merit; we find nothing in the record that might arguably 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.

/s/ Bonnie Sudderth

Bonnie Sudderth
Chief Justice

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Tex. R. App. P. 47.2(b)

Delivered: September 13, 2018