NO. 07-03-0162-CR

IN THE COURT OF APPEALS

FOR THE SEVENTH DISTRICT OF TEXAS

AT AMARILLO

PANEL B

FEBRUARY 27, 2004

JUAN LUNA, JR., APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

FROM THE 64TH DISTRICT COURT OF HALE COUNTY;

NO. A13103-9807; HONORABLE ED SELF, JUDGE

Before JOHNSON, C.J., and QUINN and CAMPBELL, JJ.

MEMORANDUM OPINION

Appellant Juan Luna, Jr. appeals from a judgment revoking community supervision and imposing sentence pursuant to conviction for burglary of a habitation. We affirm.

In accordance with a plea bargain, appellant entered a plea of guilty to a charge of burglary of a habitation. The judge of the 64th District Court of Hale County (the trial court), found that the evidence substantiated appellant's guilt, accepted the guilty plea,

found appellant guilty, and sentenced appellant to confinement for ten years, a $1000 fine and court costs and attorney's fees. The confinement portion of the sentence was suspended and appellant was placed on community supervision for five years.

The State filed a motion to revoke. The motion was heard on December 5, 2000. Appellant pled true to all of the allegations in the motion. The trial judge modified the terms of appellant's probation by extending the term of appellant's community supervision and placing appellant on intensive probation for six months. The State filed a second motion to revoke, alleging five grounds as the bases for the motion. The motion was heard on March 17, 2003. Appellant pled true to three of the four remaining grounds without a plea bargain. The trial judge found true the allegations to which appellant pled true, found that appellant violated terms of his probation, revoked the order placing appellant on community supervision, and sentenced appellant to ten years in the Texas Department of Criminal Justice, Institutional Division.

Counsel for appellant has filed a Motion to Withdraw and a Brief in Support thereof. In support of the motion to withdraw, counsel has certified that, in compliance with Anders v. California, 386 U.S. 738, 744-45, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), the record has been diligently reviewed and that in the opinion of counsel, the record reflects no reversible error or grounds upon which a non-frivolous appeal can arguably be predicated. Counsel thus concludes that the appeal is without merit. Counsel has discussed why, under the controlling authorities and the facts of this case, there is no arguable appellate issue or reversible error in the trial court proceedings or judgment. See High v. State, 573 S.W.2d 807, 813 (Tex.Crim.App. 1978).

Counsel has attached exhibits showing that a copy of the Anders brief and Motion to Withdraw have been forwarded to appellant, and that counsel has appropriately advised appellant of appellant's right to review the record and file a response to counsel's motion and brief. Appellant has not filed a response to counsel's motion and brief.

We have made an independent examination of the record to determine whether there are any arguable grounds for appeal, see Penson v. Ohio, 488 U.S. 75, 109 S.Ct. 346, 102 L.Ed 2d 300 (1988); Stafford v. State, 813 S.W.2d 503, 511 (Tex.Crim.App. 1991). We have found no such grounds. We agree with appellate counsel that the appeal is without merit.

Accordingly, counsel's Motion to Withdraw is granted. The judgment of the trial court is affirmed.

Phil Johnson
Chief Justice

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