

NO. 07-05-0360-CR
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL A
SEPTEMBER 20, 2006

KELLY SHAWN MAYFIELD, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

FROM THE 320TH DISTRICT COURT OF POTTER COUNTY;

NO. 50,278-D; HONORABLE DON EMERSON, JUDGE

Before REAVIS and CAMPBELL and HANCOCK, JJ.

MEMORANDUM OPINION

Appellant, Kelly Shawn Mayfield, appeals his conviction for unauthorized use of a motor vehicle, twice enhanced by prior felony convictions, and sentence of five years incarceration in the Institutional Division of the Texas Department of Criminal Justice and a fine of \$3,000. Appellant's counsel has filed a brief in compliance with Anders v. California, 386 U.S. 738, 744-45, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), and Gainous v. State, 436 S.W.2d 137, 138 (Tex.Crim.App. 1969). We affirm.

Appellant was indicted for unauthorized use of a motor vehicle enhanced by two prior felony convictions. A jury subsequently found appellant guilty of unauthorized use of a motor vehicle. Appellant entered pleas of true to the enhancement paragraphs of the indictment and the jury sentenced appellant to five years confinement and a fine of \$3,000.

Appellant's counsel has filed a brief, in compliance with Anders and Gainous, stating that he has diligently reviewed the appellate record and is of the opinion that the record reflects no reversible error upon which an appeal can arguably be predicated. Counsel thus concludes that the appeal is frivolous. Counsel's brief presents a chronological summation of the procedural history of the case and discusses why, under the controlling authorities, there is no reversible error in the trial court proceedings and judgment. See High v. State, 573 S.W.2d 807, 813 (Tex.Crim.App. 1978).

Counsel has attached an exhibit showing that a copy of the Anders brief has been forwarded to appellant and that counsel has appropriately advised appellant of his right to review the record and file a *pro se* response to counsel's motion and brief. The clerk of this court has also advised appellant by letter of his right to file a response to counsel's brief. Appellant has not filed a response.

We have made an independent examination of the record to determine whether there are any non-frivolous grounds upon which an appeal could arguably be founded. See Penson v. Ohio, 488 U.S. 75, 80, 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.

Appellant's counsel has moved for leave to withdraw. See Johnson v. State, 885 S.W.2d 641, 645 (Tex.App.–Waco 1994, writ ref'd). We carried the motion for consideration with the merits of the appeal. Having done so and finding no reversible error, appellant's counsel's motion to withdraw is granted and the trial court's judgment is affirmed.

Mackey K. Hancock
Justice

Do not publish.