

NO. 07-05-0368-CR
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL C
JULY 25, 2007

JUAN M. PACHECO, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

FROM THE 140TH DISTRICT COURT OF LUBBOCK COUNTY;
NO. 2005-409332; HONORABLE JIM BOB DARNELL, JUDGE

Before QUINN, C.J., and HANCOCK and PIRTLE, JJ.

MEMORANDUM OPINION

Appellant was indicted for the offense of driving while intoxicated, a felony, enhanced by two previous felony convictions. Appellant pleaded guilty, without benefit of a plea bargain, to the offense as charged and true to the enhancement paragraphs. The trial court found appellant guilty and, after conducting a hearing on punishment, sentenced appellant to confinement in the Institutional Division, Texas Department of Criminal Justice for a term of forty years. We affirm.

Appellant's attorney has filed an Anders brief and a motion to withdraw. Anders v. California, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed. 2d 498 (1967). In support of his motion to withdraw, counsel certifies that he has diligently reviewed the record, and in his opinion, the record reflects no reversible error upon which an appeal can be predicated. Id. at 744-45. In compliance with High v. State, 573 S.W.2d 807, 813 (Tex.Crim.App. 1978), counsel has candidly discussed why, under the controlling authorities, there is no error in the trial court's judgment. Additionally, counsel has certified that he has provided appellant a copy of the Anders brief and motion to withdraw and appropriately advised appellant of his right to file a *pro se* response in this matter. Stafford v. State, 813 S.W.2d 503, 510 (Tex.Crim.App. 1991). The court has also advised appellant of his right to file a *pro se* response. Appellant has not filed a response.

By his Anders brief, counsel raises grounds that could possibly support an appeal, but concludes the appeal is frivolous. We have reviewed these grounds and made an independent review of the entire record to determine whether there are any arguable grounds which might support an appeal. See Penson v. Ohio, 488 U.S. 75, 109 S.Ct. 346, 102 L.Ed.2d 300 (1988); Bledsoe v. State, 178 S.W.3d 824 (Tex.Crim.App. 2005). We have found no such arguable grounds and agree with counsel that the appeal is frivolous.

Accordingly, counsel's motion to withdraw is hereby granted¹ and the trial court's judgment is affirmed.

Mackey K. Hancock
Justice

Do not publish.

¹In granting counsel's motion to withdraw, however, we remind counsel to insure that he has complied with the "educational" duty to inform appellant of his right to file a *pro se* petition for discretionary review in the Court of Criminal Appeals. Ex parte Owens, 206 S.W.3d 670 (Tex.Crim.App. 2006)