NO. 07-07-0062-CR

IN THE COURT OF APPEALS

FOR THE SEVENTH DISTRICT OF TEXAS

AT AMARILLO

PANEL C

MAY 7, 2007

VELVET MARIE REYES, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

FROM THE 27TH DISTRICT COURT OF BELL COUNTY;

NO. 60076; HONORABLE JOE CARROLL, JUDGE

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

MEMORANDUM OPINION

Pursuant to an open plea of guilty, Appellant, Velvet Marie Reyes, was convicted of theft, enhanced, and sentenced to twenty-one months in a state jail facility. In

presenting this appeal, counsel has filed an *Anders*[1] brief in support of a motion to withdraw. We grant counsel's motion and affirm.

In support of his motion to withdraw, counsel certifies he has diligently reviewed the record and, in his opinion, the record reflects no reversible error upon which an appeal can be predicated. *Anders v. California*, 386 U.S. 738, 744-45, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967); *Monroe v. State*, 671 S.W.2d 583, 585 (Tex.App.--San Antonio 1984, no pet.). Thus, he concludes the appeal is frivolous. Counsel has candidly discussed why, under the controlling authorities, there is no error in the court's judgment. *See High v. State*, 573 S.W.2d 807, 813 (Tex.Cr.App. 1978). Counsel has also shown that he sent a copy of the brief to Appellant and informed Appellant that, in counsel's view, the appeal is without merit. In addition, counsel has demonstrated that he notified Appellant of her right to review the record and file a *pro se* response if she desired to do so. The Clerk of this Court also advised Appellant by letter of her right to file a response to counsel's brief. Appellant filed a response, and the State filed a brief requesting that the trial court's judgment be affirmed based on the *Anders* brief.

Against her trial attorney's advice, Appellant rejected a plea offer of fifteen months. During the punishment phase, she admitted having numerous theft convictions. During cross-examination she confirmed that she had been stealing for approximately thirteen years as reflected in the presentence investigation report. By her testimony and a letter

[1]*Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967).

from her to the trial judge, which was admitted into evidence, she attempted to explain the reasons for her "poor decisions" in hope of leniency. As a mother of four, she had become desperate to provide her children with a better life. Following closing arguments, the trial court assessed a sentence of twenty-one months.

By the *Anders* brief, counsel asserts the trial court substantially complied with article 26.13 of the Texas Code of Criminal Procedure in admonishing Appellant regarding her guilty plea. Counsel further asserts that Appellant's sentence was lawfully imposed. *See* Tex. Pen. Code Ann. §§ 31.03(e)(4)(D) & 12.35(a) (Vernon 2003).

We have independently examined the entire record to determine whether there are any non-frivolous grounds which might support the 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.Cr.App. 1991). We have found no such grounds. After reviewing the record, counsel's brief, Appellant's response, and the State's brief, we agree with counsel that the appeal is frivolous. *See Bledsoe v. State*, 178 S.W.3d 824 (Tex.Cr.App. 2005).

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

Patrick A. Pirtle
Justice

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