

NO. 07-09-0140-CR
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL B
SEPTEMBER 3, 2009

RICHARD WILLIAM KINCAID,

Appellant

v.

THE STATE OF TEXAS,

Appellee

FROM THE COUNTY COURT AT LAW NO. 1 OF POTTER COUNTY;
NO. 122436; HON. W. F. "CORKY" ROBERTS, PRESIDING

Memorandum Anders Opinion

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

Appellant Richard William Kincaid was convicted by a jury of possessing marijuana in an amount of two ounces or less and sentenced to 180 days confinement in the Potter County jail. Appellant's appointed counsel filed a motion to withdraw, together with an *Anders*¹ brief wherein he certified that, after diligently searching the record, he found the appeal to be without merit. Along with his brief, appellate counsel attached a copy of a

¹*Anders v. California*, 386 U.S. 738, 744-45, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967).

letter sent to appellant informing him of counsel's belief that there was no reversible error and of appellant's right to file a response or brief *pro se*. By letter dated July 22, 2009, this court also notified appellant of his right to tender his own brief or response and set August 21, 2009, as the deadline to do so. To date, we have received neither a brief nor a response.

In compliance with the principles enunciated in *Anders*, appellate counsel discussed several potential areas for appeal. They involved 1) whether a sufficient chain of custody was established to support the admission into evidence of the marijuana, and 2) the sufficiency of the evidence to sustain the conviction including whether appellant was properly identified at trial. Counsel also explained why each argument lacked merit.

We conducted our own review of the record to assess the accuracy of counsel's conclusions and to uncover arguable error pursuant to *Stafford v. State*, 813 S.W.2d 503 (Tex. Crim. App. 1991). That review failed to reveal any.

Accordingly, the motion to withdraw is granted, and the judgment is affirmed.²

Brian Quinn
Chief Justice

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²Counsel shall, within five days after this opinion is handed down, send his client a copy of the opinion and judgment, along with notification of appellant's right to file a *pro se* petition for discretionary review. See TEX. R. APP. P. 48.4.