



**In The  
Court of Appeals  
Seventh District of Texas at Amarillo**

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No. 07-17-00011-CR  
No. 07-17-00012-CR  
No. 07-17-00013-CR  
No. 07-17-00015-CR

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**HERVE TUZOLANA, APPELLANT**

**V.**

**THE STATE OF TEXAS, APPELLEE**

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On Appeal from Criminal District Court One  
Tarrant County, Texas  
Trial Court Nos. 1445576D, 1448057D, 1448092D, and 1451607D;  
Honorable Elizabeth Beach, Presiding

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April 6, 2017

**MEMORANDUM OPINION**

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

Pursuant to open pleas of guilty, Appellant, Herve Tuzolana, was convicted of four counts of aggravated robbery with an affirmative deadly weapon finding.<sup>1</sup> He was sentenced to twenty years confinement in each case with the sentences ordered to be

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<sup>1</sup> TEX. PENAL CODE ANN. § 29.03(a)(2) (West 2011).

served concurrently. In presenting these appeals, counsel has filed an *Anders*<sup>2</sup> brief in support of a motion to withdraw. We grant counsel's motion and affirm.<sup>3</sup>

In support of his motion to withdraw, counsel certifies he has conducted a conscientious examination of the records, and in his opinion, they reflect no potentially plausible basis for reversal of Appellant's convictions. *Anders v. California*, 386 U.S. 738, 744-45, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967); *In re Schulman*, 252 S.W.3d 403, 406 (Tex. Crim. App. 2008). Counsel candidly discusses why, under the controlling authorities, the records support that conclusion. See *High v. State*, 573 S.W.2d 807, 813 (Tex. Crim. App. 1978). Counsel has demonstrated that he has complied with the requirements of *Anders* and *In re Schulman* by (1) providing a copy of the brief to Appellant, (2) notifying him of the right to file a *pro se* response if he desired to do so, and (3) informing him of the right to file a *pro se* petition for discretionary review. *In re Schulman*, 252 S.W.3d at 408.<sup>4</sup> By letter, this court granted Appellant an opportunity to exercise his right to file a response to counsel's brief, should he be so inclined. *Id.* at 409 n.23. Appellant did not file a response. Neither did the State favor us with a brief.

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<sup>2</sup> *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967).

<sup>3</sup> Originally appealed to the Second Court of Appeals, these appeals were transferred to this court by the Texas Supreme Court pursuant to its docket equalization efforts. TEX. GOV'T CODE ANN. § 73.001 (West 2013). Should a conflict exist between precedent of the Second Court of Appeals and this court on any relevant issue, these appeals will be decided in accordance with the precedent of the transferor court. TEX. R. APP. P. 41.3.

<sup>4</sup> Notwithstanding that Appellant was informed of his right to file a *pro se* petition for discretionary review upon execution of the *Trial Court's Certification of Defendant's Right of Appeal*, counsel must comply with Rule 48.4 of the Texas Rules of Appellate Procedure which provides that counsel shall within five days after this opinion is handed down, send Appellant a copy of the opinion and judgments together with notification of his right to file a *pro se* petition for discretionary review. *In re Schulman*, 252 S.W.3d at 408 n.22 & 411 n.35. The duty to send the client a copy of this court's decision is an informational one, not a representational one. It is ministerial in nature, does not involve legal advice, and exists after the court of appeals has granted counsel's motion to withdraw. *Id.* at 411 n.33.

## BACKGROUND

At the time of his guilty pleas, Appellant was nineteen years old. Testimony at his sentencing hearing established that he has had a drug problem since he was thirteen and has also been in the juvenile system since then. He has an extensive criminal history that has escalated over the years. It culminated in the underlying convictions in which he, on three separate occasions, robbed four females with a firearm. Notwithstanding testimony from family and church members that they would provide a support system for Appellant if he was not incarcerated, they all admitted he had a drug habit, had made serious mistakes, and associated with unsavory individuals. Testimony also established that he was responsible for two young children. After hearing all the punishment evidence, the trial court sentenced Appellant to twenty years confinement.

## ANALYSIS

By the *Anders* brief, counsel concedes there are no meritorious issues to present on appeal. He acknowledges the limited matters that may be appealed following a conviction from a guilty plea. Counsel evaluates those matters as well as trial counsel's performance and the assessment of punishment. He concludes there is no reversible error in any of the cases.

We have independently examined the records to determine whether there are any non-frivolous issues which might support these appeals. See *Penson v. Ohio*, 488 U.S. 75, 80, 109 S. Ct. 346, 102 L. Ed. 2d 300 (1988); *In re Schulman*, 252 S.W.3d at 409; *Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991). We have found no such issues. See *Gainous v. State*, 436 S.W.2d 137, 138 (Tex. Crim. App. 1969). After

reviewing the records and counsel's brief, we agree with counsel that there is no plausible basis for reversal of Appellant's convictions. See *Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005).

CONCLUSION

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

Patrick A. Pirtle  
Justice

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