



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

No. 07-18-00013-CR

JUSTIN SHAWN SHACTER, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

**On Appeal from the 47th District Court
Randall County, Texas
Trial Court No. 23,281-A, Honorable Dan L. Schaap, Presiding**

February 20, 2019

MEMORANDUM OPINION

Before QUINN, CJ., and CAMPBELL and PARKER, JJ.

Justin Shawn Shacter, appellant, appeals from the judgment revoking his deferred adjudication community supervision, adjudicating him guilty of the offense of aggravated assault on a public servant, and sentencing him to twenty years of imprisonment. Appellant's appointed counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967), and *In re Schulman*, 252 S.W.3d 403 (Tex. Crim. App. 2008). We agree with counsel's conclusion that the

record fails to show any arguably meritorious issue that could support an appeal. Accordingly, we affirm the trial court's judgment.

In March of 2012, appellant was indicted on the offense of aggravated assault on a public servant.¹ Pursuant to a plea agreement, appellant pled guilty to the charge and received deferred adjudication community supervision for a period of eight years. Appellant's deferred adjudication was conditioned on his compliance with certain terms and conditions.

In September of 2017, the State filed a motion to revoke appellant's community supervision, alleging six violations of the terms of appellant's deferred adjudication community supervision. The motion was heard by the trial court in December of 2017, at which time the State waived three of its six allegations. The remaining contentions alleged appellant's commission of a new offense (public intoxication), failure to notify his supervising officer of an arrest within 48 hours, and violation of curfew. Appellant initially pled "true" to two of the allegations and "not true" to the third; then, after a recess, he changed his plea and pled "true" to the third allegation as well. The record reflects that the trial court admonished appellant as to the potential consequences of his pleas and that appellant acknowledged that he understood those admonishments.

The court heard testimony from an Amarillo Police Department officer regarding her arrest of appellant on September 2, 2017, for public intoxication, and from the Texas Department of Public Safety trooper who was the victim of appellant's aggravated assault. The court also heard from appellant's probation officer, who testified that appellant failed

¹ See TEX. PENAL CODE ANN. § 22.02(a), (b)(2) (West 2011).

to comply with several of the terms and conditions of his community supervision. She testified that, after one report of violation, appellant was sentenced to a term of confinement in an intermediate sanctions facility (ISF), which he completed. He was then placed in a substance abuse treatment program for aftercare, but he did not complete the program. After another report of violation, appellant was sentenced to a substance abuse felony punishment facility (SAFPF). The probation officer testified that she filed another report of violation based on two new pending charges against appellant. She recommended revocation of his probation. Finally, appellant testified regarding his desire to continue his probation and get help through SAFPF.

Based on appellant's pleas of "true" and the evidence presented, the trial court revoked appellant's community supervision, adjudicated him guilty of aggravated assault on a public servant, and assessed punishment at twenty years' confinement and a fine of \$1,500.

After appellant filed notice of appeal, his appointed counsel filed a motion to withdraw and a brief in support pursuant to *Anders*, in which he certified that he had reviewed the record and found no meritorious or non-frivolous grounds for appeal. See *Anders*, 386 U.S. 738 at 744-45. In compliance with *High v. State*, 573 S.W.2d 807, 813 (Tex. Crim. App. [Panel Op.] 1978), counsel has discussed why, under the controlling authorities, there is no error in the trial court's judgment. Counsel has complied with the requirements of *Anders* by providing a copy of his brief, motion to withdraw, and appellate record to appellant, and notifying him of his right to file a pro se response if he desired to do so. *Kelly v. State*, 436 S.W.3d 313, 319-20 (Tex. Crim. App. 2014). This Court has

also advised appellant of his right to file a pro se response. Appellant has not filed a response.

As noted by counsel, appellant's plea of "true" to even one allegation in the State's motion was sufficient to support a judgment revoking community supervision. *Cole v. State*, 578 S.W.2d 127, 128 (Tex. Crim. App. 1979). Additionally, counsel concludes that the sentence imposed by the trial court is not improper. See *Rodriguez v. State*, 917 S.W.2d 90, 92 (Tex. App.—Amarillo 1996, pet. ref'd) (where punishment assessed is within the range of punishment established by statute, it does not violate state or federal prohibitions).

We have independently examined the record to determine whether there are any non-frivolous issues that were preserved in the trial court which might support the appeal. See *Penson v. Ohio*, 488 U.S. 75, 82-83, 109 S. Ct. 346, 102 L. Ed. 2d 300 (1988); *Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991). After carefully reviewing the record and the *Anders* brief, we agree with counsel that there are no plausible grounds for reversal.

Accordingly, we grant counsel's motion to withdraw² and affirm the judgment of the trial court.

Judy C. Parker
Justice

Do not publish.

² Counsel shall, within five days after the opinion is handed down, send appellant 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. This duty 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. *In re Schulman*, 252 S.W.3d at 411 n.33.