



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

Nos. 07-18-00327-CR
07-18-00328-CR
07-18-00329-CR

JACOB ALAN EDGAR, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 108th District Court
Potter County, Texas
Trial Court Nos. 73,480-E, 73,481-E 73,482-E, Honorable Douglas R. Woodburn, Presiding

April 22, 2019

ORDER OF ABATEMENT AND REMAND

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

Jacob Alan Edgar, appellant, appeals the trial court's judgments by which he was convicted of unlawful possession of a firearm by a felon, aggravated assault with a deadly weapon, and burglary of a habitation. He was sentenced to twenty, ninety-nine, and ninety-nine years' imprisonment, respectively. Each sentence was to run concurrently with the others.¹ We abate and remand for appointment of new counsel.

¹ We note that, in the same proceeding, appellant was also convicted in trial court cause number 74,114-E of another charge of aggravated assault with a deadly weapon against a separate victim. He was

Appointed counsel filed a motion to withdraw and an *Anders*² brief in the three causes. Through those documents, counsel certified that, after he diligently searched the record, the appeal was without merit. Accompanying the brief and motion is a copy of a letter informing appellant of counsel's belief that there was no reversible error and of appellant's right to file a response, pro se. So too did the letter indicate that counsel provided appellant a copy of the appellate record. Appellant sought and this Court granted an extension of the deadline to file his pro se response to counsel's motion to withdraw, making appellant's response due April 3, 2019. Appellant filed a response which we received six days after the due date.

We reviewed the argument of appellant's counsel and the content of appellant's pro se response. So too did we conduct our own review of the appellate record per *In re Schulman*, 252 S.W.3d 403 (Tex. Crim. App. 2008), and *Stafford v. State*, 813 S.W.2d 503 (Tex. Crim. App. 1991) (en banc). Our review of those matters resulted in the discovery of arguable issues. One pertains to the pretrial motion of defense counsel to withdraw filed in Cause Nos. 73,480-E and 73,482-E and the trial court's denial of them. Counsel represented therein that a conflict between him and appellant resulted in his being unable to adequately represent appellant. See *Suniga v. State*, No. AP-77,041, 2019 Tex. Crim. App. Unpub. LEXIS 128, at *7–8 (Tex. Crim. App. Mar. 6, 2019) (per curiam) (not designated for publication) ("Once a possible conflict of interest is brought to the trial court's attention by either a pre-trial motion or trial objection, the court has a constitutional obligation to take adequate steps to ascertain whether the risk of the conflict

sentenced to life imprisonment for that offense. No notice of appeal has been filed with respect to this fourth conviction and it is, therefore, not before this Court at this time.

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

of interest is too remote to warrant remedial action.”) Another concerns Cause No. 73,481-E where a like pretrial motion to withdraw was filed and granted; the effect of being represented by counsel whom the trial court excused due to a conflict presents arguable substance. Others concern trial court Cause No. 73,482-E and 1) whether the State proved the elements of the offense of burglary of a habitation coupled with the commission of an aggravated assault as charged in the indictment in that cause, and 2) the effect, if any, regarding the difference between the charge as alleged in the indictment and crime stated in the guilt / innocence verdict form and judgment in that cause. We make no representation about the ultimate merits of these issues but, rather, conclude that they prevent affirmance via an *Anders* setting.

Counsel having represented to this Court that no arguable issue appears of record, his continuation as appellant’s attorney would pose a conflict of interest. So, we grant counsel’s motion to withdraw. We also abate and remand all three causes to the trial court and order it to appoint, on or before May 22, 2019, new counsel to represent appellant in each appeal. A copy of the order appointing new counsel shall be included in a supplemental clerk’s record and filed with the Clerk of this Court on or before May 29, 2019. Newly appointed counsel will then file an appellant’s brief conforming to the Texas Rules of Appellate Procedure and addressing the issues mentioned above and any other issue counsel deems arguable. The deadline to file said appellant’s brief is June 21, 2019, unless extended by the Court.

Per Curiam

Do not publish.