



**In The
Court of Appeals
Sixth Appellate District of Texas at Texarkana**

No. 06-08-00226-CR

JARRARD MCGARY, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 5th Judicial District Court
Bowie County, Texas
Trial Court No. 96-F-377-5

Before Morriss, C.J., Carter and Moseley, JJ.
Memorandum Opinion by Justice Moseley

MEMORANDUM OPINION

Jarrard McGary, pro se appellant, has filed with this Court a motion to dismiss his appeal from the denial of his request for post-conviction DNA testing.

McGary's attorney filed an *Anders*¹ brief March 23, 2009, and simultaneously filed his motion to withdraw and advised McGary of his right to review the record and to file a pro se response.

McGary has requested, and been granted, three extensions of time by this Court to file his pro se response, stating in his requests for extensions that he has not received the full record from the district clerk. We have contacted the district clerk, who has assured us that she has sent everything she has to McGary. According to the district clerk, the last portion of the record McGary is evidently requesting does not belong to the district clerk, but belongs to McGary's trial counsel. It also appears that this record is not of the DNA hearing, but of his underlying 1997 trial for murder.

This Court, and the district clerk, having done all we can to accommodate McGary's requests for the record, and McGary now having requested to dismiss his appeal, we grant the motion.

¹*See Anders v. California*, 386 U.S. 738 (1967).

We dismiss the appeal.

Bailey C. Moseley
Justice

Date Submitted: September 9, 2009
Date Decided: September 10, 2009

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