



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

No. 06-09-00002-CR

JAMES DONAGHY, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 5th Judicial District Court
Cass County, Texas
Trial Court No. 2002-F-00119

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

MEMORANDUM OPINION

James Donaghy appeals from the adjudication of guilt for the offense of aggravated sexual assault of a child. The adjudication was based on allegations and evidence that he had violated two terms of his community supervision, by initiating and maintaining contact with a minor child, and that he was within 1,000 feet of a playground when he was seen at Spring Lake Park in Texarkana, Texas, in the company of an eight-year-old boy. Although Donaghy pled “not true” to the allegations, he also testified at the adjudication hearing that he had been in the park and that he was aware he was not supposed to be around children, but was nonetheless with a child there. The trial court found the allegations true and sentenced Donaghy to sixty years’ imprisonment.

Donaghy’s attorney has filed a brief which discusses the record and reviews the proceedings. Counsel has thus provided a professional evaluation of the record demonstrating why, in effect, there are no arguable grounds to be advanced. This meets the requirements of *Anders v. California*, 386 U.S. 738 (1967); *Stafford v. State*, 813 S.W.2d 503 (Tex. Crim. App. 1991); and *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. [Panel Op.] 1978).

Counsel mailed a copy of the brief to Donaghy on September 14, 2009, informing Donaghy of his right to file a pro se response and to review the record. Counsel has also filed a motion with this Court seeking to withdraw as counsel in this appeal. Donaghy has not filed a pro se response.

We have determined that this appeal is wholly frivolous. We have independently reviewed the clerk’s record and the reporter’s record, and we agree that no arguable issues support an appeal.

See Bledsoe v. State, 178 S.W.3d 824, 826–27 (Tex. Crim. App. 2005). In a frivolous appeal situation, we are to determine whether the appeal is without merit and is frivolous, and if so, the appeal must be dismissed or affirmed. *See Anders*, 386 U.S. 738.

We affirm the judgment of the trial court.¹

Bailey C. Moseley
Justice

Date Submitted: January 27, 2010
Date Decided: January 28, 2010

Do Not Publish

¹Since we agree this case presents no reversible error, we also, in accordance with *Anders*, grant counsel’s request to withdraw from further representation of Donaghy in this case. No substitute counsel will be appointed. Should Donaghy wish to seek further review of this case by the Texas Court of Criminal Appeals, Donaghy must either retain an attorney to file a petition for discretionary review or Donaghy must file a pro se petition for discretionary review. Any petition for discretionary review must be filed within thirty days from the date of either this opinion or the last timely motion for rehearing that was overruled by this Court. *See* TEX. R. APP. P. 68.2. Any petition for discretionary review must be filed with this Court, after which it will be forwarded to the Texas Court of Criminal Appeals along with the rest of the filings in this case. *See* TEX. R. APP. P. 68.3. Any petition for discretionary review should comply with the requirements of Rule 68.4 of the Texas Rules of Appellate Procedure. *See* TEX. R. APP. P. 68.4.