



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

No. 06-09-00077-CR

GAYLOR STINER, JR., Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 402nd Judicial District Court
Wood County, Texas
Trial Court No. 20,451-2008

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

MEMORANDUM OPINION

Gaylor Stiner, Jr., appeals from his jury conviction of aggravated assault with a deadly weapon. TEX. PENAL CODE ANN. § 22.02 (Vernon Supp. 2009). Stiner pled “true” to the enhancement paragraphs alleged in the indictment and was sentenced as a habitual offender to fifty years’ imprisonment and a \$1,000.00 fine. TEX. PENAL CODE ANN. § 12.42 (Vernon Supp. 2009). Stiner was represented by appointed counsel at trial and on appeal. Stiner’s attorney has filed a brief in which he concludes that the appeal is frivolous and without merit, after a review of the record and the related law.

Counsel states that he has studied the record and finds no error preserved for appeal that could be successfully argued. The brief contains a professional evaluation of the record and advances six arguable grounds for review. 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 Stiner August 3, 2009, informing Stiner of his right to examine the entire appellate record and to file a pro se response. Counsel simultaneously filed a motion with this Court seeking to withdraw as counsel in this appeal. Stiner filed his response January 4, 2010.

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

Josh R. Morriss, III
Chief 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Do Not Publish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 Stiner in this case. No substitute counsel will be appointed. Should Stiner wish to seek further review of this case by the Texas Court of Criminal Appeals, Stiner must either retain an attorney to file a petition for discretionary review or Stiner 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.