



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

No. 06-09-00078-CR

JUSTIN DEE RODGERS, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 173rd Judicial District Court
Henderson County, Texas
Trial Court No. C-14,859

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

MEMORANDUM OPINION

Justin Dee Rodgers appeals from the adjudication of guilt for the offense of sexual assault of a child, on his pleas of "true" to the State's allegations contained in its motion to proceed with adjudication of guilt and sentence.¹ Rodgers was sentenced by the trial court to twelve years' imprisonment. Rodgers was represented by appointed counsel at trial and on appeal.

Rodgers' 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 Rodgers July 2, 2009, informing Rodgers of his right to file a pro se response; counsel mailed Rodgers a second letter August 13, 2009, advising him of his right to review the record. Counsel has also filed a motion with this Court seeking to withdraw as counsel in this appeal. Rodgers has neither filed a pro se response nor requested an extension of time in which to file such a 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.

¹Originally appealed to the Twelfth Court of Appeals, this case was transferred to this Court by the Texas Supreme Court pursuant to its docket equalization efforts. See TEX. GOV'T CODE ANN. § 73.001 (Vernon 2005).

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.²

Josh R. Morriss, III
Chief Justice

Date Submitted: September 22, 2009
Date Decided: September 23, 2009

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²Since we agree this case presents no reversible error, we also, in accordance with *Anders*, grant counsel's request to withdraw from further representation of Rodgers in this case. No substitute counsel will be appointed. Should Rodgers wish to seek further review of this case by the Texas Court of Criminal Appeals, Rodgers must either retain an attorney to file a petition for discretionary review or Rodgers 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.