



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

No. 06-09-00163-CR

CODY GENE BERRY, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 6th Judicial District Court
Lamar County, Texas
Trial Court No. 19,579

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

MEMORANDUM OPINION

Cody Gene Berry appeals from the revocation of his community supervision. Berry was convicted of possession of less than one gram of methamphetamine in a drug-free zone. Upon revocation, he was sentenced to five years' imprisonment and a \$1,000.00 fine. Berry was represented by appointed counsel at the revocation hearing and on appeal.

Berry's attorney on appeal has filed a brief which discusses the record and reviews the proceedings in detail. 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. 1981); and *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. [Panel Op.] 1978).

Counsel mailed a copy of the brief to Berry on February 16, 2010, informing Berry of his right to file a pro se response and of his right to review the record. Counsel has also filed a motion with this Court seeking to withdraw as counsel in this appeal. Berry has neither filed a pro se response, nor has he requested an extension of time in which to file such 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, and grant counsel's motion to withdraw.¹

Bailey C. Moseley
Justice

Date Submitted: April 29, 2010
Date Decided: April 30, 2010

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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 Berry in this case. No substitute counsel will be appointed. Should Berry wish to seek further review of this case by the Texas Court of Criminal Appeals, Berry must either retain an attorney to file a petition for discretionary review or Berry 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.