



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

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No. 06-10-00159-CR

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DAVID SCOTT DANIELS, Appellant

V.

THE STATE OF TEXAS, Appellee

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On Appeal from the 402nd Judicial District Court  
Wood County, Texas  
Trial Court No. 20,064-2008

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

## MEMORANDUM OPINION

David Scott Daniels appeals the revocation of his community supervision. In the underlying conviction, he pled guilty to unauthorized use of a motor vehicle. TEX. PENAL CODE ANN. § 31.07 (Vernon 2003). He was placed on five years' community supervision. Revocation proceedings were brought and Daniels pled true to a violation of his terms of community supervision (and not true to several other allegations). His community supervision was revoked and he was sentenced to one year in a state-jail facility.

Daniels' 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 and a letter to Daniels on December 21, 2010, informing Daniels 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.

Daniels filed a pro se response on February 2, 2011. In his response, he complains about the evidence supporting the underlying conviction and about a perceived level of confusion in the prosecution of the case at the trial court. We point out that this appeal is not taken from the underlying conviction. Any complaint about that proceeding would have had to be raised in an

appeal from the conviction. The only proceeding before this Court on appeal is the revocation and subsequent sentencing.

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 with counsel's assessment 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.<sup>1</sup>

Bailey C. Moseley  
Justice

Date Submitted: February 4, 2011  
Date Decided: February 8, 2011

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<sup>1</sup>Since we agree this case presents no reversible error, we also, in accordance with *Anders*, grant counsel's request to withdraw from further representation of Daniels in this case. No substitute counsel will be appointed. Should Daniels wish to seek further review of this case by the Texas Court of Criminal Appeals, Daniels must either retain an attorney to file a petition for discretionary review or Daniels 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.