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

No. 06-11-00067-CR

JASON CORNELIUS CONNALLY, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 114th Judicial District Court
Smith County, Texas
Trial Court No. 114-1488-10

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

MEMORANDUM OPINION

Jason Cornelius Connally[1] entered an open plea of guilty to a charge of aggravated robbery. The trial court sentenced Connally to thirty years' incarceration. Evidence at the plea and sentencing hearings indicates Connally drove his cousins to a store, which they robbed; Connally effectively was the getaway driver. Connally stated he did not know, until after the robbery, that one of his cousins had a pistol during the robbery. Connally acknowledged he did nothing to distance himself from the cousins following the robbery or to alert police to their identities or crime.

Connally'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 states he mailed a copy of the brief and a letter to Connally, informing him of his right to file a pro se response and of his right to review the record. Connally in turn has filed a one-page pro se response, claiming ineffective assistance of counsel and "cruel and unusual

[1]Originally 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). We are unaware of any conflict between precedent of the Twelfth Court of Appeals and that of this Court on any relevant issue. *See* TEX. R. APP. P. 41.3.

punishment in light of [his] role in the offense." Counsel has also filed a motion with this Court seeking to withdraw as counsel in this appeal.

Connally presents no argument or legal authority for his general claims of ineffective assistance of counsel and that his sentence was cruel and unusual punishment. He has failed to adequately brief these claims. TEX. R. APP. P. 38.1(h).

Regardless, he stated to the trial court he was satisfied with his trial counsel's representation. Further, there is nothing in the record to rebut the strong presumption trial counsel's actions were the result of sound trial strategy. *See Jackson v. State*, 877 S.W.2d 768, 771, 773 (Tex. Crim. App. 1994). Connally has failed to meet the requirements of *Strickland*, and thus has failed to demonstrate ineffective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668 (1984).

As for Connally's assertion his sentence constituted cruel and unusual punishment, his sentence of thirty years was within the statutory range for a first degree felony. *See* TEX. PENAL CODE ANN. § 12.32 (West 2011); *Jordan v. State*, 495 S.W.2d 949, 952 (Tex. Crim. App. 1973). Connally lodged no objection to the sentence to the trial court. TEX. R. APP. P. 33.1(a)(1)(A); *Rhoades v. State*, 934 S.W.2d 113, 119 (Tex. Crim. App. 1996); *Mullins v. State*, 208 S.W.3d 469 (Tex. App.—Texarkana 2006, no pet.). He has not preserved this claim for appellate review. Even if the contention had been preserved for review, the contention fails. Since the sentence is within the statutory range, there is no indication that the severity of the sentence is grossly

disproportionate to the gravity of the offense, and no evidence establishes the sentence is disproportionate as compared with other sentences in the jurisdiction. *See Mullins*, 208 S.W.3d at 470.

We have determined that this appeal is wholly frivolous. We have independently reviewed the clerk's record and the reporter's record, and find no genuinely arguable issue. *See Halbert v. Michigan*, 545 U.S. 605, 623 (2005). We, therefore, 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. at 744.

We affirm the judgment of the trial court.[2]

Josh R. Morriss, III
Chief Justice

Date Submitted: August 3, 2011

[2]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 appellant in this case. No substitute counsel will be appointed. Should appellant wish to seek further review of this case by the Texas Court of Criminal Appeals, appellant must either retain an attorney to file a petition for discretionary review or appellant 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. Should a petition for discretionary review be filed after September 1, 2011, it should be filed directly with the Texas Court of Criminal Appeals. *See* Texas Court of Criminal Appeals Misc. Docket No. 11-004, July 12, 2011. 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.

Date Decided: August 15, 2011

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