



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

No. 06-11-00072-CR

DAVID RAMON MITCHELL, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 159th Judicial District Court
Angelina County, Texas
Trial Court No. CR-29649

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

MEMORANDUM OPINION

The testimony at David Ramon Mitchell's bench trial for deadly conduct¹ portrayed him, in drunken anger, discharging a firearm a few times in the direction of an occupied building in an apartment complex in Lufkin, Angelina County,² Texas. From his conviction and the subsequent imposition of a sentence of seven years' confinement, Mitchell appeals.

Mitchell'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 and a letter to Mitchell May 31, 2011, informing Mitchell of his right to file a pro se response and of his right to review the record. No response has been filed. Counsel has also filed a motion with this Court seeking to withdraw as counsel in this appeal.

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*

¹*See* TEX. PENAL CODE ANN. § 22.05(b)(2), (e) (West 2011) (knowingly discharging firearm in direction of habitation, reckless as to occupancy; felony of third degree).

²Originally 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.

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).

We affirm the judgment of the trial court.³

Josh R. Morriss, III
Chief Justice

Date Submitted: August 12, 2011

Date Decided: August 15, 2011

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³Since 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 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.