



IN THE  
TENTH COURT OF APPEALS

\_\_\_\_\_  
No. 10-10-00411-CR

CURTIS TYLER LUNSFORD,

Appellant

v.

THE STATE OF TEXAS,

Appellee

\_\_\_\_\_  
From the 52nd District Court  
Coryell County, Texas  
Trial Court No. FMM-10-20323

---

---

MEMORANDUM OPINION

---

---

After his jury trial on a charge of murder had begun, Curtis Lunsford changed his not-guilty plea to an open plea of guilty and waived his right to a jury. The trial court accepted the guilty plea and found Lunsford guilty. After a punishment hearing, Lunsford was assessed a seventy-five year prison sentence. Lunsford appealed, and his appointed appellate counsel has filed a motion to withdraw and an *Anders* brief, asserting that he has diligently reviewed the appellate record and that, in his opinion, the appeal is frivolous. *See Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d

493 (1967). Although informed of his right to do so, Lunsford did not file a *pro se* response to the *Anders* brief.

In an *Anders* case, we must, “after a full examination of all the proceedings, [] decide whether the case is wholly frivolous.” *Anders*, 386 U.S. at 744, 87 S.Ct. at 1400; accord *Stafford v. State*, 813 S.W.2d 503, 509-11 (Tex. Crim. App. 1991). An appeal is “wholly frivolous” or “without merit” when it “lacks any basis in law or fact.” *McCoy v. Court of Appeals*, 486 U.S. 429, 439 n.10, 108 S.Ct. 1895, 1902 n.10, 100 L.Ed.2d 440 (1988).

We have conducted an independent review of the record, and because we find this appeal to be wholly frivolous, we affirm the judgment. Counsel must send Lunsford a copy of our decision by certified mail, return receipt requested, at Lunsford’s last known address. TEX. R. APP. P. 48.4. Counsel must also notify Lunsford of his right to file a *pro se* petition for discretionary review. *Id.*; see also *Ex parte Owens*, 206 S.W.3d 670, 673-74 (Tex. Crim. App. 2006). We grant counsel’s motion to withdraw, effective upon counsel’s compliance with this notification requirement as evidenced by “a letter [to this Court] certifying his compliance.” See TEX. R. APP. P. 48.4.

REX D. DAVIS  
Justice

Before Chief Justice Gray,  
Justice Davis, and  
Justice Scoggins

Affirmed

Opinion delivered and filed March 21, 2012

Do not publish  
[CRPM]

Lunsford v. State

Page 2