



IN THE
TENTH COURT OF APPEALS

No. 10-14-00126-CR

MANUEL LUZ ALEMAN,

Appellant

v.

THE STATE OF TEXAS,

Appellee

From the 54th District Court
McLennan County, Texas
Trial Court No. 2013-1252-C2

MEMORANDUM OPINION

Appellant Manuel Luz Aleman entered an open plea of guilty to the offense of possession of a controlled substance, namely, cocaine, in an amount of one gram or more, but less than four grams. A jury assessed his punishment, enhanced by a prior felony conviction, at twelve years' imprisonment. Aleman appealed.

Aleman's 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, Aleman 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.” *Id.* 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.

We grant appointed counsel’s motion to withdraw from representation of Aleman. Notwithstanding this grant, appointed counsel **must** send Aleman a copy of our decision, notify him of his right to file a *pro se* petition for discretionary review, and send this Court a letter certifying counsel’s compliance with Texas Rule of Appellate Procedure 48.4. TEX. R. APP. P. 48.4; *see also Ex parte Owens*, 206 S.W.3d 670, 673-74 (Tex. Crim. App. 2006).

REX D. DAVIS
Justice

Before Chief Justice Gray,
Justice Davis, and
Justice Scoggins

Affirmed
Opinion delivered and filed October 16, 2014
Do not publish
[CR25]

