



**IN THE
TENTH COURT OF APPEALS**

No. 10-15-00289-CR

SHARICE RIVERA-TORRES,

Appellant

v.

THE STATE OF TEXAS,

Appellee

**From the 52nd District Court
Coryell County, Texas
Trial Court No. FDP-14-22479**

MEMORANDUM OPINION

Sharice Rivera-Torres was charged with possession of a controlled substance, a second degree felony. *See* TEX. HEALTH & SAFETY CODE ANN. § 481.115(a), (d) (West 2010). She pled guilty. The trial court deferred an adjudication of guilt and placed Rivera-Torres on community supervision for 2 years. Seven months later, the trial court revoked Rivera-Torres's community supervision, adjudicated Rivera-Torres's guilt, and sentenced Rivera-Torres to four years in prison.

Rivera-Torres's appellate attorney filed an *Anders* brief in this appeal. *See Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967). Rivera-Torres was informed of her right of access to the appellate record and her right to submit a brief or other response on her own behalf. She did not request access to the appellate record and did not submit a brief or response.

Counsel asserts in the *Anders* brief that counsel reviewed the reporter's record and clerk's record, the sentence received by Rivera-Torres, and the sufficiency of the evidence to support revocation of Rivera-Torres's deferred adjudication community supervision. As part of his brief, counsel reviews the testimony supporting the grounds for revocation. Counsel notes there were multiple grounds asserted and that Rivera-Torres pled true to all counts. Counsel further notes that a plea of true to any one ground of revocation was sufficient to affirm the revocation. Counsel also notes that Rivera-Torres had the opportunity to present, and did present, punishment evidence to the trial court. Counsel concludes that counsel is unable to find any non-frivolous error.

Counsel's brief evidences a professional evaluation of the record for error, and we conclude that counsel performed the duties required of appointed counsel. *See Anders*, 386 U.S. at 744; *High v. State*, 573 S.W.2d 807, 812 (Tex. Crim. App. 1978); *see also In re Schulman*, 252 S.W.3d 403, 407 (Tex. Crim. App. 2008).

In reviewing an *Anders* appeal, we must, "after a full examination of all the proceedings, . . . decide whether the case is wholly frivolous." *See Anders*, 386 U.S. at

744; 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, 100 L. Ed. 2d 440 (1988). Arguments are frivolous when they "cannot conceivably persuade the court." *Id.* at 436. An appeal is not wholly frivolous when it is based on "arguable grounds." *Stafford*, 813 S.W.2d at 511.

After reviewing counsel's brief and the entire record in this appeal, we determine the appeal to be wholly frivolous. See *Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005). Accordingly, we affirm the trial court's judgment.

Should Rivera-Torres wish to seek further review of this case by the Texas Court of Criminal Appeals, she must either retain an attorney to file a petition for discretionary review or must file a pro se petition for discretionary review. Any petition for discretionary review must be filed within thirty days from the date of this opinion or the last timely motion for rehearing or timely motion for en banc reconsideration was overruled by this Court. See TEX. R. APP. P. 68.2. Any petition and all copies of the petition for discretionary review must be filed with the Clerk of the Court of Criminal Appeals. See TEX. R. APP. P. 68.3. (Tex. Crim. App. 1997, amended eff. Sept. 1, 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. See also *In re Schulman*, 252 S.W.3d at 409 n.22.

Counsel's motion to withdraw from representation of Rivera-Torres is granted, and counsel is permitted to withdraw from representing Rivera-Torres. Additionally, counsel must send Rivera-Torres a copy of our decision, notify her of her 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 In re Schulman*, 252 S.W.3d at 409 n.22.

TOM GRAY
Chief Justice

Before Chief Justice Gray,
Justice Davis, and
Justice Scoggins

Affirmed

Opinion delivered and filed March 24, 2016

Do not publish

[CR25]

