



IN THE  
TENTH COURT OF APPEALS

\_\_\_\_\_  
No. 10-17-00035-CR

ASHLEY BREE'ANNA MARIE STRAUB,

Appellant

v.

THE STATE OF TEXAS,

Appellee

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From the 21st District Court  
Burleson County, Texas  
Trial Court No. 14,967

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MEMORANDUM OPINION

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Ashley Bree'Anna Marie Straub was charged with one count of Attempted Promotion of Child Pornography (Count I) and one count of Online Solicitation of a Minor (Count II). *See* TEX. PENAL CODE ANN. §§ 43.26; 33.021 (West 2011). An order deferring an adjudication of guilt was rendered in both counts, and Straub was placed on community supervision for 10 years. The State filed motions to revoke each order; and after a hearing, the trial court revoked Straub's community supervision, adjudicated her guilty in each count, and sentenced her to prison for 10 years in each count. The sentences

were ordered to run concurrently.

Straub's appellate attorney filed a motion to withdraw and an *Anders* brief in support of the motion to withdraw, asserting that the appeal presents no issues of arguable merit. *See Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967). Counsel advised Straub that counsel had filed the motion and brief pursuant to *Anders* and provided Straub a copy of the record, advised Straub of her right to review the record, and advised Straub of her right to submit a response on her own behalf. Straub did not submit a response.

Counsel asserts in the *Anders* brief that counsel has made a thorough review of the entire reporter's record and clerk's record, the effectiveness of trial counsel, the sentence imposed, and the sufficiency of the evidence to support the revocation. After the review, counsel has concluded there is no non-frivolous issue to raise in this appeal. 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).

Upon the filing of an *Anders* brief, as the reviewing appellate court, it is our duty to independently examine the record to decide whether counsel is correct in determining that an appeal is frivolous. *See Anders*, 386 U.S. at 744; *Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991). Arguments are frivolous when they "cannot conceivably

persuade the court." *McCoy v. Court of Appeals*, 486 U.S. 429, 436, 108 S. Ct. 1895, 100 L. Ed. 2d 440 (1988).

Having carefully reviewed the entire record and the *Anders* brief, we have determined that the appeal is frivolous. *See Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005). Accordingly, we affirm the trial court's Judgment Adjudicating Guilt (Count I) signed on January 9, 2017 and Judgment Adjudicating Guilt (Count II), also signed on January 9, 2017.

Should Straub 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. No substitute counsel will be appointed. 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 has been 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 Straub is granted, and counsel is discharged from representing Straub in this appeal. Notwithstanding

counsel's discharge, counsel must send Straub 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 November 8, 2017

Do not publish

[CR25]

