IN THE
TENTH COURT OF APPEALS

No. 10-17-00253-CR

CHASE WILLIAM EMERSON,

Appellant

v.

THE STATE OF TEXAS,

Appellee

From the 19th District Court
McLennan County, Texas
Trial Court No. 2016-1748-C1

MEMORANDUM OPINION

Appellant, Chase William Emerson, was charged by indictment with one count of escape, two counts of harassment of a public servant, and one count of unauthorized use of a vehicle. *See* TEX. PENAL CODE ANN. §§ 22.11, 31.07, 38.06 (West 2016 & Supp. 2017). Pursuant to a plea bargain with the State, appellant pleaded guilty to each of the four counts. The trial court sentenced appellant to eight years of deferred adjudication community supervision for the counts pertaining to escape and harassment offenses and

five years of deferred adjudication community supervision for the unauthorized-use-of-a-vehicle offense. Thereafter, appellant was transported to Dallas County for disposition of unrelated charges.

Subsequently, the State filed a motion to adjudicate guilt, alleging that appellant violated the terms and conditions of his community supervision by failing to report to the McLennan County Community Supervision and Corrections Department after he was released from Dallas County Jail. The State also alleged that appellant violated his community supervision by failing to pay various court-ordered fees.

The trial court conducted a hearing on the State's motion to adjudicate guilt. At this hearing, appellant pleaded "true" to the allegation that he did not report to the McLennan County Community Supervision and Corrections Department and "not true" to the remaining allegations. The trial court accepted appellant's plea of "true," found him guilty of each of the four counts, and sentenced him to eight years' incarceration in the Institutional Division of the Texas Department of Criminal Justice for the escape and harassment counts and twenty-four months' incarceration for the unauthorized-use-of-a-vehicle count. The sentences were ordered to run concurrently. The trial court certified appellant's right to appeal, and this appeal followed.

I. *ANDERS* BRIEF

Pursuant to *Anders v. California*, 386 U.S. 738, 744, 87 S. Ct. 1396, 1400, 18 L. Ed. 2d 493 (1967), appellant's court-appointed appellate counsel has filed a brief and a motion

to withdraw with this Court, stating that his review of the record yielded no error upon which an appeal can be predicated. Counsel's brief meets the requirements of *Anders* as it presents a professional evaluation demonstrating why there are no arguable grounds to advance on appeal. *See In re Schulman*, 252 S.W.3d 403, 407 n.9 (Tex. Crim. App. 2008) ("In Texas, an *Anders* brief need not specifically advance 'arguable' points of error if counsel finds none, but it must provide record references to the facts and procedural history and set out pertinent legal authorities.") (citing *Hawkins v. State*, 112 S.W.3d 340, 343-44 (Tex. App.—Corpus Christi 2003, no pet.)); *Stafford v. State*, 813 S.W.2d 503, 510 n.3 (Tex. Crim. App. 1991) (en banc).

In compliance with *High v. State*, 573 S.W.2d 807, 813 (Tex. Crim. App. [Panel Op.] 1978), appellant's counsel has carefully discussed why, under controlling authority, there are no reversible errors in the trial court's judgment. Counsel has informed this Court that he has: (1) examined the record and found no arguable grounds to advance on appeal; (2) served a copy of the brief and counsel's motion to withdraw on appellant; and (3) provided appellant with a copy of the record and informed him of his right to file a pro se response.[1] *See Anders*, 386 U.S. at 744, 87 S. Ct. at 1400; *Stafford*, 813 S.W.2d at 510 n.3; *see also In re Schulman*, 252 S.W.3d at 409 n.23. More than an adequate period of time

[1] The Texas Court of Criminal Appeals has held that "'the pro se response need not comply with the rules of appellate procedure in order to be considered. Rather, the response should identify for the court those issues which the indigent appellant believes the court should consider in deciding whether the case presents any meritorious issues.'" *In re Schulman*, 252 S.W.3d 403, 409 n.23 (Tex. Crim. App. 2008) (quoting *Wilson v. State*, 955 S.W.2d 693, 696-97 (Tex. App.—Waco 1997, no pet.)).

has passed, and appellant has not filed a pro se response.[2] *See In re Schulman*, 252 S.W.3d at 409.

II. INDEPENDENT REVIEW

Upon receiving an *Anders* brief, we must conduct a full examination of all the proceedings to determine whether the case is wholly frivolous. *Penson v. Ohio*, 488 U.S. 75, 80, 109 S. Ct. 346, 349-50, 102 L. Ed. 2d 300 (1988). We have reviewed the entire record and counsel's brief and have found nothing that would arguably support an appeal. *See Bledsoe v. State*, 178 S.W.3d 824, 827-28 (Tex. Crim. App. 2005) ("Due to the nature of *Anders* briefs, by indicating in the opinion that it considered the issues raised in the briefs and reviewed the record for reversible error but found none, the court of appeals met the requirement of Texas Rule of Appellate Procedure 47.1."); *Stafford*, 813 S.W.2d at 509. Accordingly, we affirm the judgment of the trial court.

III. MOTION TO WITHDRAW

In accordance with *Anders*, appellant's attorney has asked this Court for permission to withdraw as counsel in this case. *See Anders*, 386 U.S. at 744, 87 S. Ct. at

[2] Concurrent with his filing of his *Anders* brief and motion to withdraw, appellate counsel provided appellant with a "Pro se Motion for Access to the Appellate Record" that lacked only appellant's signature. On January 24, 2018, we received the "Pro se Motion for Access to the Appellate Record" signed by appellant. Accordingly, in an order dated January 31, 2018, we ordered appellate counsel to provide appellant with a copy of the Clerk's Record, Reporter's Record, and any other documents contained in the appellate record. On February 13, 2018, appellate counsel notified this Court that he provided appellant a copy of the appellate record. However, despite being provided a copy of the appellate record, appellant has not filed a pro se response or filed a motion for extension to file his pro se response. In light of appellate counsel's representations and appellant's failure to file a pro se response, we have fair assurance that appellate counsel has complied with the Court of Criminal Appeals's decision in *Kelly v. State*. *See* 436 S.W.3d 313, 319-20 (Tex. Crim. App. 2014).

1400; *see also In re Schulman*, 252 S.W.3d at 408 n.17 (citing *Jeffery v. State*, 903 S.W.2d 776, 779-80 (Tex. App.—Dallas 1995, no pet.) ("If an attorney believes the appeal is frivolous, he must withdraw from representing the appellant. To withdraw from representation, the appointed attorney must file a motion to withdraw accompanied by a brief showing the appellate court that the appeal is frivolous.") (citations omitted)). We grant counsel's motion to withdraw. Within five days of the date of this Court's opinion, counsel is ordered to send a copy of this opinion and this Court's judgment to appellant and to advise him of his right to file a petition for discretionary review.[3] *See* TEX. R. APP. P. 48.4; *see also In re Schulman*, 252 S.W.3d at 412 n.35; *Ex parte Owens*, 206 S.W.3d 670, 673 (Tex. Crim. App. 2006).

AL SCOGGINS
Justice

[3] No substitute counsel will be appointed. Should appellant wish to seek further review of this case by the Texas Court of Criminal Appeals, he 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 id.* at R. 68.3. Any petition for discretionary review should comply with the requirements of rule 68.4 of the Texas Rules of Appellate Procedure. *See id.* at R. 68.4; *see also In re Schulman*, 252 S.W.3d at 409 n.22.

Before Chief Justice Gray,
Justice Davis, and
Justice Scoggins
Affirmed
Opinion delivered and filed May 23, 2018
Do not publish
[CR25]