

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-05-00184-CR

Gary Franklin, Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 167TH JUDICIAL DISTRICT
NO. 933724, HONORABLE MICHAEL LYNCH, JUDGE PRESIDING**

MEMORANDUM OPINION

Appellant Gary Franklin was placed on deferred adjudication community supervision after he pleaded guilty to sexual assault of a child. *See* Tex. Pen. Code Ann. § 22.011 (West Supp. 2005). The district court later revoked supervision, adjudicated appellant guilty, and imposed a fifty-four-month prison sentence. This appeal followed.¹

Appellant's court-appointed attorney filed a brief concluding that the appeal is frivolous and without merit. The brief meets the requirements of *Anders v. California*, 386 U.S. 738 (1967), by presenting a professional evaluation of the record demonstrating why there are no

¹ The trial court initially certified that this was a plea bargain case and Franklin had no right of appeal. In response to an order from this Court, the trial court corrected the certification to indicate that Franklin had the right to appeal issues unrelated to the conviction. The court of criminal appeals has since made it clear that defendants who receive deferred adjudication pursuant to a plea bargain have a right of appeal following adjudication. *See Hargesheimer v. State*, 182 S.W.3d 906, 913 (Tex. Crim. App. 2006).

arguable grounds to be advanced. *See also Penson v. Ohio*, 488 U.S. 75 (1988); *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. 1978); *Currie v. State*, 516 S.W.2d 684 (Tex. Crim. App. 1974); *Jackson v. State*, 485 S.W.2d 553 (Tex. Crim. App. 1972); *Gainous v. State*, 436 S.W.2d 137 (Tex. Crim. App. 1969). Appellant received a copy of counsel's brief and was advised of his right to examine the appellate record and to file a pro se brief. No pro se brief or other written response to counsel's brief has been filed.

We have reviewed the record and counsel's brief and agree that the appeal is frivolous and without merit. We find nothing in the record that might arguably support the appeal. Counsel's motion to withdraw is granted.

The judgment of conviction is affirmed.

Bob Pemberton, Justice

Before Chief Justice Law, Justices Patterson and Pemberton

Affirmed

Filed: June 30, 2006

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