

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

**NO. 03-05-00444-CR
NO. 03-05-00445-CR**

Derek Hainey, Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 167TH JUDICIAL DISTRICT
NOS. D-1-DC-04-301028 & D-1-DC-04-302772,
HONORABLE MICHAEL LYNCH, JUDGE PRESIDING**

MEMORANDUM OPINION

At a bench trial, appellant Derek Hainey was found guilty of indecency with a child by contact and by exposure. *See* Tex. Pen. Code Ann. § 21.11 (West 2003). After finding that appellant had a previous felony conviction, the court assessed prison terms of thirty years for the contact offense and twenty years for the exposure offense.

Appellant's court-appointed attorney filed a brief concluding that the appeals are 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 records demonstrating why there are no 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 records and to file a pro se brief. No pro se brief has been filed.

The judgments of conviction erroneously recite that appellant pleaded guilty. Otherwise, we agree with counsel that the appeals are frivolous and without merit. We find nothing in the records that might arguably require that the convictions be reversed. Counsel's motions to withdraw are granted.

The district court's judgments of conviction are modified to reflect that appellant pleaded not guilty. As modified, the judgments are affirmed.

David Puryear, Justice

Before Justices B. A. Smith, Puryear and Waldrop

Modified and, as Modified, Affirmed

Filed: May 26, 2006

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