

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-08-00112-CR

Jesus Morales Jr., Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF TOM GREEN COUNTY, 119TH JUDICIAL DISTRICT
NO. B-07-0694-S, HONORABLE JAY K. WEATHERBY, JUDGE PRESIDING**

MEMORANDUM OPINION

A jury found appellant Jesus Morales, Jr., guilty of the unlawful possession of a firearm by a felon. *See* Tex. Penal Code Ann. § 46.04 (West Supp. 2008). The jury assessed his punishment, enhanced by two previous felony conviction, at imprisonment for twenty-five years.

A pickup truck being driven by appellant's brother was stopped for speeding by Trooper Carlos Diaz. Diaz subsequently arrested appellant's brother on an outstanding warrant and for driving while his license was suspended. Diaz arrested appellant, who was also in the truck, for public intoxication. Diaz found a shotgun and a .22 rifle in the truck. The vehicle and both firearms belonged to the brothers' employer, Leland Key. Key testified that he had given appellant's brother possession of the truck and the shotgun for employment-related use. Key did not know how the .22 rifle came to be in the truck. The rifle had been taken without his knowledge from a trailer house on his property.

Appellant's court-appointed attorney has filed a motion to withdraw supported by 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 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). After receiving a copy of counsel's brief and examining the appellate record, appellant filed a pro se brief.

We have reviewed the record, counsel's brief, and the pro se brief. We agree that the appeal is frivolous and without merit. We find nothing in the record that might arguably support the appeal. *See Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005). Counsel's motion to withdraw is granted.

The judgment of conviction is affirmed.

Jan P. Patterson, Justice

Before Justices Patterson, Waldrop and Henson

Affirmed

Filed: December 19, 2008

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