

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

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**NO. 03-14-00380-CR**

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**Michael Stuart Burton, Appellant**

**v.**

**The State of Texas, Appellee**

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**FROM THE DISTRICT COURT OF BELL COUNTY, 264TH JUDICIAL DISTRICT  
NO. 71457, HONORABLE MARTHA J. TRUDO, JUDGE PRESIDING**

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**MEMORANDUM OPINION**

This is an appeal pursuant to *Anders v. California*.<sup>1</sup> Appellant Michael Stuart Burton pleaded guilty to the offense of aggravated robbery with a deadly weapon.<sup>2</sup> As part of his plea agreement, Burton signed a judicial confession in which he admitted to the allegations contained within the indictment. At the plea hearing, the district court found the evidence sufficient to support a finding of guilt but withheld that finding and proceeded to sentencing.

During the sentencing hearing, the State presented evidence relating to the offense. The evidence tended to show that Burton entered a convenience store in Killeen in the early morning hours of May 22, 2013, and attacked the store clerk with a knife, stabbing her multiple times. The store clerk testified at the hearing and described the attack. According to the clerk, Burton forced

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<sup>1</sup> 386 U.S. 738 (1967).

<sup>2</sup> See Tex. Penal Code § 29.03.

her to the ground and stabbed her “at least four times” until the knife broke, at which point Burton proceeded to punch and kick her repeatedly before going behind the counter to steal cigarettes. The clerk recounted that as she attempted to get to safety, Burton moved toward her in what she believed was an apparent effort to “finish [her] off,” but she was able to evade him. Burton subsequently fled the store when a car pulled into the parking lot outside.

Dr. Stephen Thorne, a licensed psychologist who examined Burton following his arrest, testified regarding Burton’s medical history. According to Thorne, Burton had a long history of substance abuse and mental illness, including bipolar disorder. A copy of Burton’s psychological evaluation, as well as a series of photographs depicting the crime scene and the clerk’s injuries, were admitted into evidence. After considering this and other evidence, the district court sentenced Burton to 40 years’ imprisonment. This appeal followed.

Burton’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* by presenting a professional evaluation of the record demonstrating why there are no arguable grounds to be advanced.<sup>3</sup> Counsel has certified to the Court that he has provided a copy of the motion and brief to Burton, advised Burton of his right to examine the appellate record and file a pro se response, and supplied Burton with a form motion for pro se access to the appellate record.<sup>4</sup> No pro se brief or other written response has been filed.

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<sup>3</sup> See 386 U.S. at 744-45; 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).

<sup>4</sup> See *Kelly v. State*, 436 S.W.3d 313, 319-20 (Tex. Crim. App. 2014).

We have reviewed the record and counsel's brief and agree with counsel 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.

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Bob Pemberton, Justice

Before Justices Puryear, Pemberton, and Field

Affirmed

Filed: August 18, 2015

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