

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

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**NO. 03-15-00507-CR**

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**Richard Vasquez, Appellant**

**v.**

**The State of Texas, Appellee**

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**FROM THE DISTRICT COURT OF COMAL COUNTY, 207TH JUDICIAL DISTRICT  
NO. CR2014-551, HONORABLE GARY L. STEEL, JUDGE PRESIDING**

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**MEMORANDUM OPINION**

This is an appeal pursuant to *Anders v. California*.<sup>1</sup> A jury convicted appellant Richard Vasquez of the offenses of attempted capital murder of a peace officer and aggravated assault against a public servant.<sup>2</sup> The district court rendered judgment on each verdict and sentenced Vasquez to thirty years' imprisonment for the attempted-capital-murder offense and fifteen years' imprisonment for the aggravated-assault offense, with the sentences to run concurrently.

Evidence considered by the jury during trial included the testimony of Officer Jesse Perez of the New Braunfels Police Department. Officer Perez testified that on the night of October 20, 2014, he responded to a call of a domestic disturbance "involving a weapon of some type." Perez explained that when he arrived at the location of the disturbance, he observed

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

<sup>2</sup> See Tex. Penal Code §§ 15.01(a), 19.03(a)(1), 22.02(b)(2)(B).

an individual, later identified as Vasquez, walking toward Perez's patrol car. According to Perez, Vasquez then turned in the opposite direction and began to run away. Perez testified that as he proceeded to pursue Vasquez in his patrol car, Vasquez reached for an object "in his waistband," pulled it out, and turned toward Perez's vehicle. Perez recounted, "At first I didn't know what the object was, so at that time I put my vehicle in park. And as I'm putting it in park, I hear a gunshot going off—as I'm putting it in park and opening my driver's side door, I hear a gunshot." Perez added that he "saw the muzzle flash from the first round as I was exiting my vehicle." Perez further testified that he heard "two more gunshots go off" after he exited his vehicle and took cover. Vasquez was subsequently apprehended by other officers.

A video recording of the shooting taken from Perez's patrol-car dash camera was admitted into evidence, and on the recording, multiple shots can be heard and a flash can be seen following two of the shots. Other evidence considered by the jury included the testimony of Bacilio Pena, Vasquez's stepfather, who described the argument that he had with Vasquez on the night of the shooting and recounted how, during the argument, Vasquez had displayed a firearm that he had underneath his shirt; a videotaped statement that Vasquez gave following his arrest, in which Vasquez expressed surprise that he had "fired shots" during the pursuit and claimed that he was "drugged up" at the time he encountered Perez and thus could not remember everything that had occurred, but did remember that he was fleeing the police; and photographs of shell casings and bullets that had been recovered from the location where the shooting had occurred.

Based on the above and other evidence, the jury found Vasquez guilty of the charged offenses and assessed punishment as noted above. The district court rendered judgment on each verdict. This appeal followed.

Vasquez's court-appointed counsel 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 Vasquez, advised Vasquez of his right to examine the appellate record and file a pro se response, and supplied Vasquez with a form motion for pro se access to the appellate record.<sup>4</sup> No pro se brief has been filed.

We have reviewed the record and counsel's brief. We 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 judgments of conviction are affirmed.

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Bob Pemberton, Justice

Before Justices Puryear, Pemberton, and Field

Affirmed

Filed: August 18, 2016

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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).