

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-16-00363-CR

Kevin M. Wheeler, Appellant

v.

The State of Texas, Appellee

**FROM THE COUNTY COURT AT LAW NO. 7 OF TRAVIS COUNTY
NO. C-1-CR-15-201884, HONORABLE ELISABETH ASHLEA EARLE, JUDGE PRESIDING**

MEMORANDUM OPINION

After a bench trial, the court found Kevin Wheeler guilty of driving while intoxicated and assessed punishment at 140 days in jail, but suspended imposition of the sentence and placed Wheeler on community supervision for 18 months. *See* Tex. Penal Code § 49.04.

Wheeler's court-appointed attorney has filed a motion to withdraw supported by a brief addressing this appeal and concluding that this appeal is frivolous and without merit. The brief meets the requirements of *Anders v. California*, 386 U.S. 738, 744 (1967), by presenting a professional evaluation of the record in this cause demonstrating why there are no arguable appellate grounds to be advanced. *See id.*; *see also* *Penson v. Ohio*, 488 U.S. 75, 80 (1988); *High v. State*, 573 S.W.2d 807, 811-13 (Tex. Crim. App. 1978); *Currie v. State*, 516 S.W.2d 684, 684 (Tex. Crim. App. 1974); *Jackson v. State*, 485 S.W.2d 553, 553 (Tex. Crim. App. 1972); *Gainous v. State*, 436 S.W.2d 137, 138 (Tex. Crim. App. 1969). Counsel sent a copy of the brief to Wheeler, advised

him of his right to examine the appellate record in this cause and to file a pro se brief, and supplied Wheeler with a form motion for pro se access to the appellate record. *See Anders*, 386 U.S. at 744; *Kelly v. State*, 436 S.W.3d 313, 319-20 (Tex. Crim. App. 2014). Wheeler did not file a pro se brief and did not request an extension of time to do so.

We have reviewed the record in this cause and find no reversible error. *See Garner v. State*, 300 S.W.3d 763, 766 (Tex. Crim. App. 2009); *Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005). We agree with counsel that this appeal is frivolous. Counsel's motion to withdraw is granted. The judgment of conviction is affirmed.

Jeff Rose, Chief Justice

Before Chief Justice Rose, Justices Goodwin and Bourland

Affirmed

Filed: December 28, 2016

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