

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-16-00511-CR

Derek Nathaniel Brooks, Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF BELL COUNTY, 27TH JUDICIAL DISTRICT
NO. 69853, HONORABLE FANCY JEZEK, JUDGE PRESIDING**

MEMORANDUM OPINION

This is an appeal pursuant to *Anders v. California*.¹ In March 2013, appellant Derek Nathaniel Brooks pleaded guilty to the offense of indecency with a child by exposure and was placed on deferred-adjudication community supervision for seven years.² In December 2015, the State filed a motion to adjudicate, alleging that Brooks had violated the terms of his community supervision.

At the hearing on the State's motion, Brooks pleaded true to the allegations in two of the four paragraphs in the State's motion, specifically the allegations that Brooks had entered upon premises where children were present and had unsupervised contact with children without the permission of the court. The State abandoned the allegations in the remaining two paragraphs. The district court admitted into evidence Brooks's judicial confession and heard other evidence presented

¹ 386 U.S. 738 (1967).

² See Tex. Penal Code § 21.11.

by the State, including testimony from two police officers, both of whom testified that they had found Brooks in a hotel room with two children, in violation of the conditions of his community supervision. At the conclusion of the hearing, the district court found the State's remaining allegations to be true, adjudicated Brooks guilty of the underlying offense of indecency with a child by exposure, and sentenced him to four years' imprisonment. This appeal followed.

Brooks's court-appointed counsel on appeal 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.³ Counsel has certified to the Court that he has provided a copy of the motion and brief to Brooks, advised Brooks of his right to examine the appellate record and file a pro se response, and supplied Brooks with a form motion for pro se access to the appellate record.⁴ No pro se brief or other written response 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 judgment of conviction is affirmed.

³ 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).

⁴ See *Kelly v. State*, 436 S.W.3d 313, 319–20 (Tex. Crim. App. 2014).

Bob Pemberton, Justice

Before Justices Puryear, Pemberton, and Goodwin

Affirmed

Filed: August 16, 2017

Do Not Publish