

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-18-00677-CR

Kasey Schafler, Appellant

v.

The State of Texas, Appellee

**FROM THE COUNTY COURT AT LAW NO. 6 OF TRAVIS COUNTY
NO. C-1-CR-17-203861, THE HONORABLE BRANDY MUELLER, JUDGE PRESIDING**

MEMORANDUM OPINION

Appellant Kasey Schafler was convicted by a jury of the misdemeanor offense of driving while intoxicated with an alcohol concentration level of 0.15 or more. *See* Tex. Penal Code § 49.04(a), (d). The trial court assessed appellant's punishment at 180 days in the county jail and a \$4,000 fine, *see id.* § 12.21, but suspended imposition of the sentence and placed appellant on community supervision for 18 months, *see* Tex. Code Crim. Proc. art. 42A.053(a).

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* by presenting a professional evaluation of the record demonstrating why there are no arguable grounds to be advanced. *See Anders v. California*, 386 U.S. 738, 744 (1967); *Garner v. State*, 300 S.W.3d 763, 766 (Tex. Crim. App. 2009); *see also Penson v. Ohio*, 488 U.S. 75, 81–82 (1988).

Appellant’s counsel has certified to this Court that she sent copies of the motion and brief to appellant, advised appellant of her right to examine the appellate record and file a pro se response, and provided a motion to assist appellant in obtaining the record. *See Kelly v. State*, 436 S.W.3d 313, 319–20 (Tex. Crim. App. 2014); *see also Anders*, 386 U.S. at 744. Appellant did not file a motion requesting access to the record, and, to date, has not filed a pro se response or requested an extension of time to file a response.

We have conducted an independent review of the record—including the record of the trial proceedings below and appellate counsel’s brief—and find no reversible error. *See Anders*, 386 U.S. at 744; *Garner*, 300 S.W.3d at 766; *Bledsoe v. State*, 178 S.W.3d 824, 826–27 (Tex. Crim. App. 2005). We agree with counsel that the record presents no arguably meritorious grounds for review and the appeal is frivolous. Counsel’s motion to withdraw is granted.¹ The trial court’s judgment of conviction is affirmed.

¹ Appointed counsel certified to this Court that she advised appellant of her right to seek discretionary review pro se should this Court declare her appeal frivolous. Nevertheless, appointed counsel must comply with Rule 48.4 of the Texas Rules of Appellate Procedure, which mandates that counsel send appellant a copy of this Court’s opinion and judgment along with notification of her right to file a pro se petition for discretionary review within five days after this opinion is handed down. *See Tex. R. App. P. 48.4*; *see In re Schulman*, 252 S.W.3d 403, 411 n.35 (Tex. Crim. App. 2008). The duty to send appellant a copy of this Court’s decision is an informational one, not a representational one. *See In re Schulman*, 252 S.W.3d at 411 n.33. It is ministerial in nature, does not involve legal advice, and exists after this Court has granted counsel’s motion to withdraw. *See id.*

Edward Smith, Justice

Before Chief Justice Rose, Justices Kelly and Smith

Affirmed

Filed: June 4, 2019

Do Not Publish