



NUMBER 13-07-662-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

ANTHONY C. WINSTON,

Appellant,

v.

THE STATE OF TEXAS,

Appellee.

On appeal from the 36th District Court of Aransas County, Texas.

MEMORANDUM OPINION

**Before Chief Justice Valdez and Justices Yañez and Benavides
Memorandum Opinion by Justice Yañez**

A jury found appellant, Anthony C. Winston, guilty of possession of a controlled substance (cocaine).¹ The trial court assessed punishment at eight years' imprisonment and a \$500 fine, suspended the sentence, and placed appellant on community supervision for five years. Prior to the expiration of the period of community supervision, at a hearing on the State's motion to revoke, appellant pleaded "true" to each of the State's allegations

¹ See TEX. HEALTH & SAFETY CODE ANN. § 481.115(a), (d) (Vernon 2003).

that he had violated the terms of his community supervision. The trial court revoked appellant's community supervision and sentenced him to eight years' imprisonment. Appellant's counsel has filed a brief with this Court asserting there is no basis for appeal.² We agree and affirm the trial court's judgment.

***Anders* Brief**

Counsel's brief reveals that he has reviewed the clerk's record and reporter's record in this case and has concluded that appellant's appeal presents no issues which warrant appellate review.³ The brief meets the requirements of *Anders* as it presents a professional evaluation showing why there are no arguable grounds for advancing an appeal.⁴ In compliance with *High v. State*,⁵ counsel has carefully discussed why, under controlling authority, there are no errors in the trial court's judgment. Appellant's counsel informed appellant of his right to review the appellate record and to file a *pro se* brief.⁶ More than thirty days have passed, and no *pro se* brief has been filed.⁷

Upon receiving a "frivolous appeal" brief, the appellate courts must conduct "a full examination of all the proceedings to decide whether the case is wholly frivolous."⁸ We

² See *Anders v. California*, 386 U.S. 738, 744 (1967).

³ See *id.*

⁴ See *Stafford v. State*, 813 S.W.2d 503, 510 n.3 (Tex. Crim. App. 1991) (en banc).

⁵ See *High v. State*, 573 S.W.2d 807, 813 (Tex. Crim. App. 1978).

⁶ See *In re Schulman*, 252 S.W.3d 403, 408 (Tex. Crim. App. 2008); *Sowels v. State*, 45 S.W.3d 690, 693 (Tex. App.–Waco 2001, no pet.).

⁷ See *Schulman*, 252 S.W.3d at 409 (citing *Johnson v. State*, 885 S.W.2d 641, 647 n.3 (Tex. App.–Waco 1994, pet. ref'd), modified by *Wilson v. State*, 955 S.W.2d 693 (Tex. App.–Waco 1997, no pet.)).

⁸ *Penson v. Ohio*, 488 U.S. 75, 80 (1988); see *Garza v. State*, 126 S.W.3d 312, 313 (Tex. App.–Corpus Christi 2004, no pet.).

have carefully reviewed the appellate record and counsel's brief.⁹ We agree with appellant's counsel that the appeal is without merit.¹⁰ Accordingly, we affirm the judgment of the trial court.

Motion to Withdraw

In accordance with *Anders*, counsel has asked permission to withdraw as counsel for appellant.¹¹ An appellate court may grant counsel's motion to withdraw filed in connection with an *Anders* brief.¹² We grant counsel's motion to withdraw.¹³

We order counsel to advise appellant promptly of the disposition of this case and the availability of discretionary review.¹⁴

LINDA REYNA YAÑEZ,
Justice

Do not publish. TEX. R. APP. P. 47.2(b).

Memorandum opinion delivered and filed
this the 14th day of August, 2008.

⁹ See *Schulman*, 252 S.W.3d at 409; *Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005).

¹⁰ See *Bledsoe*, 178 S.W.3d at 826-27.

¹¹ See *Anders*, 386 U.S. at 744.

¹² *Schulman*, 252 S.W.3d at 409; see *Stafford*, 813 S.W.2d at 511 (noting that *Anders* brief should be filed with request for withdrawal from case).

¹³ See *Schulman*, 252 S.W.3d at 406 (noting when counsel finds a case to be wholly frivolous, he is required to file a motion to withdraw at same time that he files an *Anders* brief).

¹⁴ *Schulman*, 252 S.W.3d at 408; see *Ex parte Wilson*, 956 S.W.2d 25, 27 (Tex. Crim. App. 1997) (en banc) (per curiam).