



**NUMBER 13-10-00109-CR**

**COURT OF APPEALS**

**THIRTEENTH DISTRICT OF TEXAS**

**CORPUS CHRISTI - EDINBURG**

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**JIMMY SANTIAGO ZAMORA,**

**Appellant,**

**v.**

**THE STATE OF TEXAS,**

**Appellee.**

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**On appeal from the 377th District Court  
of Victoria County, Texas.**

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## **MEMORANDUM OPINION**

**Before Justices Yañez, Garza, and Benavides  
Memorandum Opinion by Justice Garza**

A jury convicted appellant, Jimmy Santiago Zamora, of unlawful possession of a controlled substance, a third-degree felony.<sup>1</sup> See TEX. HEALTH & SAFETY CODE ANN. §§ 481.105, 481.118(b) (Vernon 2010). The jury sentenced Zamora to three and one-half years in the Institutional Division of the Texas Department of Criminal Justice. See TEX. PENAL CODE ANN. § 12.22 (Vernon 2010); §§ 12.34, 12.42(a)(1) (Vernon Supp.

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<sup>1</sup> The offense was enhanced by a prior felony conviction.

2010). The trial court certified Zamora's right to appeal, and this appeal followed. We affirm.

### I. *ANDERS* BRIEF

Zamora's court-appointed appellate counsel has filed a motion to withdraw and a brief in support thereof in which he states that he has diligently reviewed the entire record and that "hav[ing] researched the law applicable to the facts and issues presented, if any, . . . it is [his] professional opinion no reversible error is reflected by the record." See *Anders v. California*, 386 U.S. 738, 744 (1967). Counsel's brief therefore meets the requirements of *Anders* as it presents a professional evaluation showing why there are no arguable grounds for advancing an appeal. See *In re Schulman*, 252 S.W.3d 403, 407 n.9 (Tex. Crim. App. 2008); *Stafford v. State*, 813 S.W.2d 503, 510 n.3 (Tex. Crim. App. 1991) (en banc).

In compliance with *High v. State*, 573 S.W.2d 807, 813 (Tex. Crim. App. [Panel Op.] 1978), counsel has carefully discussed why, under controlling authority, there are no errors in the trial court's judgment. Counsel has informed this Court that he has: (1) examined the record and has found no arguable grounds to advance on appeal, (2) served a copy of the brief and motion to withdraw on Zamora, and (3) informed Zamora of his right to review the record and to file a pro se response.<sup>2</sup> See *Anders*, 386 U.S. at 744; *Stafford*, 813 S.W.2d at 510 n.3. More than an adequate time has passed, and no pro se response has been filed.

### II. INDEPENDENT REVIEW

Upon receiving an *Anders* brief, we must conduct a full examination of all the

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<sup>2</sup> The Texas Court of Criminal Appeals has held that "the pro se response need not comply with the rules of appellate procedure in order to be considered. Rather, the response should identify for the court those issues which the indigent appellant believes the court should consider in deciding whether the case presents any meritorious issues." *In re Schulman*, 252 S.W.3d 403, 409 n.23 (Tex. Crim. App. 2008) (quoting *Wilson v. State*, 955 S.W.2d 693, 696-97 (Tex. App.-Waco 1997, no pet.)).

proceedings to determine whether the case is wholly frivolous. *Penson v. Ohio*, 488 U.S. 75, 80 (1988). We have reviewed the record and find that the appeal is wholly frivolous and without merit. See *Bledsoe v. State*, 178 S.W.3d 824, 827-28 (Tex. Crim. App. 2005) (“Due to the nature of *Anders* briefs, by indicating in the opinion it considered the issues raised in the brief and reviewed the record for reversible error but found none, the court of appeals met the requirements of Texas Rule of Appellate Procedure 47.1.”); *Stafford*, 813 S.W.2d at 509. Accordingly, we affirm the judgment of the trial court.

### III. MOTION TO WITHDRAW

In accordance with *Anders*, Zamora’s counsel has filed a motion to withdraw. See *Anders*, 386 U.S. at 744; see also *In re Schulman*, 252 S.W.3d at 408 n.17 (citing *Jeffery v. State*, 903 S.W.2d 776, 779-80 (Tex. App.–Dallas 1995, no writ.) (“If an attorney believes the appeal is frivolous, he must withdraw from representing the appellant. To withdraw from representation, the appointed attorney must file a motion to withdraw accompanied by a brief showing the appellate court that the appeal is frivolous.”) (citations omitted)). We grant the motion to withdraw.

We further order that counsel must, within five days of the date of this opinion, send a copy of the opinion and judgment to Zamora and advise him of his right to file a petition for discretionary review.<sup>3</sup> See TEX. R. APP. P. 48.4; see also *In re Schulman*, 252 S.W.3d at 412 n.35; *Ex parte Owens*, 206 S.W.3d 670, 673 (Tex. Crim. App.

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<sup>3</sup> No substitute counsel will be appointed. Should Zamora wish to seek further review of this case by the Texas Court of Criminal Appeals, he must either retain an attorney to file a petition for discretionary review or file a pro se petition for discretionary review. Any petition for discretionary review must be filed within thirty days from the date of either this opinion or the last timely motion for rehearing that was overruled by this Court. See TEX. R. APP. P. 68.2. Any petition for discretionary review must be filed with this Court, after which it will be forwarded to the Texas Court of Criminal Appeals. See TEX. R. APP. P. 68.3, 68.7. Any petition for discretionary review must comply with the requirements of Rule 68.4 of the Texas Rules of Appellate Procedure. See TEX. R. APP. P. 68.4.

2006).

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DORI CONTRERAS GARZA  
Justice

Do not publish.  
TEX. R. APP. P. 47.2(b)  
Delivered and filed the  
4th day of November, 2010.