



NUMBER 13-15-00243-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

MICHELE ASSMAN,

Appellant,

v.

THE STATE OF TEXAS,

Appellee.

**On appeal from the 105th District Court of
Nueces County, Texas.**

MEMORANDUM OPINION

**Before Justices Garza, Perkes and Longoria
Memorandum Opinion by Justice Longoria**

Appellant Michele Assman was convicted based upon her open plea of guilty to one count of possession of a controlled substance (codeine), a state jail felony. See TEX. HEALTH & SAFETY CODE ANN. § 481.115(b) (West, Westlaw through 2015 R.S.). The trial court sentenced Assman to fourteen months' confinement in the Institutional Division of

the Texas Department of Criminal Justice. Assman's counsel has filed an *Anders* brief. See *Anders v. California*, 386 U.S. 738, 744 (1967). We affirm.

I. **ANDERS BRIEF**

Assman's appellate counsel has filed a motion to withdraw and a brief in support in which he states that he has diligently reviewed the entire record and has found no non-frivolous issues. See *Anders*, 386 U.S. at 744. Counsel's brief meets the requirements of *Anders* as it presents a thorough, professional evaluation of the record 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) (orig. proceeding) ("In Texas, an *Anders* brief need not specifically advance 'arguable' points of error if counsel finds none, but it must provide record references to the facts and procedural history and set out pertinent legal authorities."); *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) and *Kelly v. State*, 436 S.W.3d 313, 319–22 (Tex. Crim. App. 2014), Assman's counsel carefully discussed why, under controlling authority, there is no reversible error in the trial court's judgment. Assman's counsel also informed this Court that he has: (1) notified Assman that he has filed an *Anders* brief and a motion to withdraw; (2) provided Assman with copies of both pleadings; (3) informed Assman of her rights to file a pro se response, to review the record preparatory to filing that response, and to seek discretionary review if we conclude that the appeal is frivolous; and (4) provided Assman with a form motion for pro se access to the appellate record, lacking only Assman's signature. See *Anders*, 386 U.S. at 744; *Kelly*, 436 S.W.3d at 319–20; *Stafford*, 813

S.W.2d at 510 n.3; *see also In re Schulman*, 252 S.W.3d at 409 n.23. More than an adequate time has passed, and Assman has not filed a pro se motion for access to the appellate record or a motion for extension of time to do so. No pro se response was filed, and the State has also not filed a brief.

II. INDEPENDENT REVIEW

Upon receiving an *Anders* brief, we must conduct a full examination of all the proceedings to determine whether the appeal is wholly frivolous. *Penson v. Ohio*, 488 U.S. 75, 80 (1988). We have reviewed the record and counsel's brief and we have found no reversible error. *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.

III. MOTION TO WITHDRAW

In accordance with *Anders*, Assman's appellate 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 pet.) ("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. Within five days of the date of this opinion, counsel is ordered to send a copy of the opinion and judgment to Assman and

to advise her of her right to file a petition for discretionary review.¹ 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. 2006).

IV. CONCLUSION

We affirm the trial court's judgment.

NORA L. LONGORIA,
Justice

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

Delivered and filed the
13th day of October, 2016.

¹ No substitute counsel will be appointed. Should appellant wish to seek further review of this case by the Texas Court of Criminal Appeals, she 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 or timely motion for en banc reconsideration that was overruled by this Court. See TEX. R. APP. P. 68.2. Any petition for discretionary review must be filed with the clerk of the Court of Criminal Appeals, see TEX. R. APP. P. 68.3, and should comply with the requirements of Texas Rule of Appellate Procedure 68.4. See *id.* R. 68.4.