NUMBER 13-16-00181-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

CHRISTOPHER RAYSHON JAMES, Appellant,

v.

THE STATE OF TEXAS, Appellee.

On appeal from the 230th District Court of Harris County, Texas.

MEMORANDUM OPINION

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

Appellant Christopher Rayshon James was charged with "possession of a controlled substance, cocaine, weighing more than one gram and less than four grams," a third-degree felony. *See* TEX. HEALTH & SAFETY CODE ANN. § 481.115(a)(c) (West, Westlaw through 2015 R.S.) James pleaded guilty to the charged offense and true to

one enhancement paragraph. The trial court deferred entering an adjudication of guilt and placed James on community supervision for six years. Fifteen months later, the State filed a motion to adjudicate guilt. James pleaded true to a violation of his deferred community supervision—specifically committing an "offense against the laws of this . . . State" by unlawfully, intentionally fleeing from a peace officer. Based on James's plea of true and the evidence presented at the hearing, the trial court found James violated the condition of his deferred adjudication community supervision, granted the State's motion to adjudicate James's guilt, and found James guilty of the possession of a controlled substance. The trial court sentenced James to thirteen years' confinement in the Institutional Division of the Texas Department of Criminal Justice.

On appeal, James's counsel concludes, "[i]n her opinion, the record presents no plausible grounds for appeal." We affirm the judgment of the trial court.[1]

I. COMPLIANCE WITH *ANDERS*

Pursuant to *Anders v. California*, James's counsel filed a brief stating that, after reviewing the entire record and the applicable case law, she has "found no error in the record" and "does not believe that there is reversible error to justify [James's] conviction or sentence to be overturned." *See* 386 U.S. 738, 744–45 (1967). Counsel's brief meets the requirements of *Anders* as it presents a professional evaluation showing why there are no meritorious grounds for advancing any appeal. *See In re Schulman*, 252 S.W.3d 403, 407 n.9 (Tex. Crim. App. 2008) (orig. proceeding) ("In Texas, an *Anders* brief

[1] This case is before the Court on transfer from the First Court of Appeals in Houston pursuant to an order issued by the Supreme Court of Texas. *See* TEX. GOV'T CODE ANN. § 73.001 (West, Westlaw through 2015 R.S.).

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.") (citing *Hawkins v. State*, 112 S.W.3d 340, 343–44 (Tex. App.—Corpus Christi 2003, no pet.)); *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, 318–19 (Tex. Crim. App. 2014), counsel has demonstrated that she has complied with the requirements of *Anders* by discussing why, under controlling authority, any appeal from the judgments would be without merit and frivolous. Counsel has informed this Court, in writing, that she has: (1) notified James that counsel has filed an *Anders* brief and has requested that we allow her to withdraw as counsel; (2) provided James with copies of the *Anders* brief and the motion to withdraw; (3) informed James of his right to file a pro se response,[2] to review the record preparatory to filing that response, and to seek discretionary review if the court of appeals concludes that the appeal is frivolous; and (4) provided James with a form motion for pro se access to the appellate record, with instructions to file the motion within ten days. *See Anders*, 386 U.S. at 744; *Kelly*, 436 S.W.3d at 318–19; *see also In re Schulman*, 252 S.W.3d at 409 n.23. Adequate time has passed, and James has not filed a pro se response.

[2] 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) (orig. proceeding) (quoting *Wilson v. State*, 955 S.W.2d 693, 696–97 (Tex. App.—Waco 1997, no pet.)).

II. Independent Review

Upon receiving an *Anders* brief, this Court must conduct a full examination of all proceedings to determine whether the case is wholly frivolous. *Pension v. Ohio*, 488 U.S. 75, 80 (1988). We have reviewed the entire record, and we have found nothing that would arguably support an appeal. *See Bledsoe v. State*, 178 S.W.3d 824, 826–28 (Tex. Crim. App. 2005) ("Due to the nature of *Anders* briefs, by indicating in the opinion that it considered the issues raised in the briefs and reviewed the record for reversible error but found none, the court of appeals met the requirement 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*, counsel has asked this Court to grant her motion to withdraw as counsel for James. *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 counsel's motion to withdraw that this Court carried with the case on September 8, 2016. Within five days of the date of this Court's opinion, counsel is ordered to send a copy of the opinion and the judgment to James and to advise James of his right to pursue a petition for discretionary

review.[3] *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).

NELDA V. RODRIGUEZ
Justice

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

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

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[3] No substitute counsel will be appointed. Should James wish to seek 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 the clerk of the Texas Court of Criminal Appeals. *See id.* R. 68.3. Any petition for discretionary review should comply with the requirements of Texas Rule of Appellate Procedure 68.4. *See id.* R. 68.4.