



NUMBER 13-19-00599-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

YVETTE MARIE GONZALES,

Appellant,

v.

THE STATE OF TEXAS,

Appellee.

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

MEMORANDUM OPINION

**Before Chief Justice Contreras and Justices Benavides and Longoria
Memorandum Opinion by Justice Benavides**

Appellant Yvette Marie Gonzales appeals the revocation of her community supervision after her conviction for possession of a controlled substance (heroin) with intent to deliver, a first-degree felony. See TEX. HEALTH & SAFETY CODE ANN. § 481.112.

Gonzales pleaded guilty in October 2010 pursuant to a plea agreement and was sentenced to ten years' imprisonment, probated for ten years, and a \$1000 fine. See *id.*

The State filed a motion to revoke in September 2019 alleging that Gonzales violated the conditions of her community supervision in ten counts, including the commission of new offenses and that she failed to pay fees and fines. The State withdrew several allegations, and after being admonished by the trial court, Gonzales pleaded true to all but one of the remaining allegations. The trial court found the contested count to be not true and imposed a sentence of seven years' imprisonment.

Gonzales appeals, and her court appointed counsel has filed an *Anders* brief stating that there are no arguable grounds for appeal. See *Anders v. California*, 386 U.S. 738, 744 (1967). We affirm.

I. ***ANDERS* BRIEF**

Pursuant to *Anders*, Gonzales's court-appointed appellate counsel filed a motion to withdraw and a brief in support thereof in which she states that she has diligently reviewed the entire record and has found no non-frivolous grounds for appeal. See *id.* Counsel's brief meets the requirements of *Anders* as it presents a professional evaluation demonstrating why there are no arguable grounds to advance on appeal. See *In re Schulman*, 252 S.W.3d 403, 407 n.9 (Tex. Crim. App. 2008) ("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." (citing *Hawkins v. State*, 112 S.W.3d 340, 343–44 (Tex. App.—Corpus Christi–Edinburg 2003, no pet.))); *Stafford v. State*, 813 S.W.2d 503, 510 n.3 (Tex. Crim. App. 1991).

In compliance with *Kelly v. State*, 436 S.W.3d 313, 318–19 (Tex. Crim. App. 2014) and *High v. State*, 573 S.W.2d 807, 813 (Tex. Crim. App. [Panel Op.] 1978), Gonzales’s counsel carefully discussed why, under controlling authority, there is no reversible error in the trial court’s judgment. Counsel has informed this Court in writing that counsel has: (1) notified Gonzales that counsel has filed an *Anders* brief and a motion to withdraw; (2) provided Gonzales with copies of both pleadings; (3) informed Gonzales of her rights to file a pro se response,¹ review the record preparatory to filing that response, and seek discretionary review if the court of appeals concludes that the appeal is frivolous; and (4) provided Gonzales with a form motion for pro se access to the appellate record, lacking only Gonzales’s signature and the date and including the mailing address for the court of appeals, 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. An adequate amount of time has passed, and Gonzales has not filed a pro se response.

II. INDEPENDENT REVIEW

Upon receiving an *Anders* brief, we must conduct a full examination of all the proceedings to determine whether the case is wholly frivolous. *Penson v. Ohio*, 488 U.S. 75, 80 (1988). We have reviewed the entire record and counsel’s brief and found nothing that would arguably support an appeal. *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

¹ 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.)).

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.

III. MOTION TO WITHDRAW

In accordance with *Anders*, Gonzales’s attorney has asked this Court for permission to withdraw as counsel for Gonzales. See *Anders*, 386 U.S. at 744; see also *In re Schulman*, 252 S.W.3d at 408 n.17 (“[I]f 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.” (citing *Jeffery v. State*, 903 S.W.2d 776, 779–80 (Tex. App.—Dallas 1995, no pet.) (citations omitted))). We grant counsel’s motion to withdraw. Within five days of the date of this Court’s opinion, counsel is ordered to send a copy of this opinion and this Court’s judgment to Gonzales and to advise her of her right to file a petition for discretionary review.² 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).

² No substitute counsel will be appointed. Should Gonzales 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 *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.

IV. CONCLUSION

We affirm the trial court's judgment.

GINA M. BENAVIDES
Justice

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

Delivered and filed the
13th day of August, 2020.