



**NUMBER 13-20-00374-CR**

**COURT OF APPEALS**

**THIRTEENTH DISTRICT OF TEXAS**

**CORPUS CHRISTI – EDINBURG**

---

---

**FELECIA RAE SUETOS,**

**Appellant,**

**v.**

**THE STATE OF TEXAS,**

**Appellee.**

---

---

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

---

---

**MEMORANDUM OPINION**

**Before Justices Benavides, Hinojosa, and Silva  
Memorandum Opinion by Justice Silva**

Appellant Felecia Rae Suetos appeals a judgment revoking her probation for driving while intoxicated with a child under fifteen years old, a state jail felony. See TEX. PENAL CODE ANN. § 49.045. The trial court sentenced Suetos to two years' imprisonment. Suetos's court-appointed appellate counsel 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 as modified.

### I. **ANDERS BRIEF**

Pursuant to *Anders v. California*, Suetos’s court-appointed appellate counsel filed a brief and a motion to withdraw with this Court, stating that his review of the record yielded no grounds of reversible error upon which an appeal can be predicated. 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) (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.” (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 *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), Suetos’s counsel carefully discussed why, under controlling authority, there is no reversible error in the trial court’s judgment. Suetos’s counsel also informed this Court in writing that he (1) notified Suetos that counsel filed an *Anders* brief and a motion to withdraw; (2) provided Suetos with copies of both pleadings; (3) informed Suetos of her rights to file a pro se response, to review the record prior to filing a response, and to seek discretionary review in the Texas Court of Criminal Appeals if this Court finds that the appeal is frivolous; and (4) provided Suetos with a form motion for pro se access to the appellate

record with instructions to sign and file the motion with the court of appeals within ten days by mailing it to the address provided. 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. Suetos has been provided access to the appellate record. However, an adequate time has passed, and Suetos 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 counsel’s brief and the entire record, and we have found nothing that would support a finding of 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 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*, Suetos’s counsel asked this Court for permission to withdraw as counsel. 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.)). 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 Suetos and to advise her of her right to file a petition for discretionary review.<sup>1</sup> See TEX.

---

<sup>1</sup> No substitute counsel will be appointed. If Suetos seeks 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

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. JUDGMENT MODIFICATION

During our independent review of the record, we observed a clerical error in the judgment, which states Suetos was found guilty and convicted under Texas Penal Code § 49.048(b). However, no such section exists in the Texas Penal Code. Rather, Suetos was convicted under § 49.045(a), driving while intoxicated with a passenger who is younger than fifteen years old, which is consistent with the indictment. *See* TEX. PENAL CODE § 49.045(a).

We may modify incorrect judgments to make the record “speak the truth” when we have the necessary data and information, and we may do so on our own motion. *See* TEX. R. APP. P. 43.2(b); *Bigley v. State*, 865 S.W.2d 26, 27–28 (Tex. Crim. App. 1993); *Asberry v. State*, 813 S.W.2d 526, 529–30 (Tex. App.—Dallas 1991, pet. ref’d). We have the power to modify whatever the trial court could have corrected by a judgment nunc pro tunc when the information necessary to correct the judgment appears in the record. *Ette v. State*, 551 S.W.3d 783, 792 (Tex. App.—Fort Worth 2017), *aff’d*, 559 S.W.3d 511 (Tex. Crim. App. 2018). We conclude that the necessary information to correct the judgment appears in the record. *See id.* Therefore, we modify the trial court’s judgment to reflect that Suetos was convicted under Texas Penal Code § 49.045(a).

---

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. A 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.

**V. CONCLUSION**

We affirm the trial court's judgment as modified.

CLARISSA SILVA  
Justice

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

Delivered and filed on the  
10th day of June, 2021.