

**NO. 12-09-00096-CR**  
**NO. 12-09-00097-CR**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT**

**TYLER, TEXAS**

***JOHN NELSON LANDRUM,***  
***APPELLANT***

***§ APPEALS FROM THE 7TH***

***V.***

***§ JUDICIAL DISTRICT COURT OF***

***THE STATE OF TEXAS,***  
***APPELLEE***

***§ SMITH COUNTY, TEXAS***

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***MEMORANDUM OPINION***  
***PER CURIAM***

John Nelson Landrum appeals his convictions for aggravated assault with a deadly weapon and possession of less than one gram of methamphetamine, for which he was sentenced to imprisonment for eighteen years and two years respectively. Appellant's counsel filed a brief in compliance with *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L.Ed.2d 493 (1967) and *Gainous v. State*, 436 S.W.2d 137 (Tex. Crim. App. 1969). We dismiss the appeal.

**BACKGROUND**

Appellant was charged by separate indictments with aggravated assault with a deadly weapon and possession of less than one gram of methamphetamine. Appellant pleaded "guilty" as charged to each charged offense. The trial court admonished Appellant and accepted his "guilty" pleas. Thereafter, following a bench trial on punishment, the trial court found Appellant "guilty" as charged in each cause and sentenced Appellant to imprisonment for eighteen years for aggravated assault with a deadly weapon and two years for possession of a controlled substance. This appeal followed.

**ANALYSIS PURSUANT TO *ANDERS V. CALIFORNIA***

Appellant's counsel filed a brief in compliance with *Anders v. California* and *Gainous v. State*. Appellant's counsel states that he has diligently reviewed the appellate record and is of the opinion that the record reflects no reversible error and that there is no error upon which an

appeal can be predicated. He further relates that he is well acquainted with the facts in this case. In compliance with *Anders, Gainous*, and *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. [Panel Op.] 1978), Appellant's brief presents a chronological summation of the procedural history of the case and further states that Appellant's counsel is unable to raise any arguable issues for appeal.<sup>1</sup> We have likewise reviewed the record for reversible error and have found none.<sup>2</sup>

#### CONCLUSION

As required by *Stafford v. State*, 813 S.W.2d 503 (Tex. Crim. App. 1991), Appellant's counsel has moved for leave to withdraw. See also *In re Schulman*, 252 S.W.3d 403, 407 (Tex. Crim. App. 2008) (orig. proceeding). We carried the motion for consideration with the merits. Having done so and finding no reversible error, Appellant's counsel's motion for leave to withdraw is hereby granted and the appeal is dismissed.<sup>3</sup>

Opinion delivered July 7, 2010.

*Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.*

(DO NOT PUBLISH)

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<sup>1</sup> Counsel for Appellant certified that he provided Appellant with a copy of this brief. Appellant was given time to file his own brief in this cause. The time for filing such a brief has expired and we have received no pro se brief.

<sup>2</sup> We are troubled by the trial court's pronouncement of Appellant's sentence, particularly the statement that Appellant must pay restitution to the Texas Department of Public Safety. See TEX. CODE CRIM. PROC. art. 42.037 (Vernon Supp. 2009); see also *Aguilar v. State*, 279 S.W.3d 350, 353–54 (Tex. App.–Austin 2007, no pet.). However, the trial court did not set forth a particular dollar amount to be paid as restitution in its oral pronouncement of sentence and the written judgments of conviction each set forth \$0.00 in restitution. As such, there were no de facto orders of restitution to a nonvictim and, thus, no reversible error in that regard.

<sup>3</sup> Counsel has a duty to, within five days of the date of this opinion, send a copy of the opinion and judgment to Appellant and advise him of his right to file a petition for discretionary review. See TEX. R. APP. P. 48.4; *In re Schulman*, 252 S.W.3d at 411 n.35. Should Appellant 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 on his behalf or he must file a petition for discretionary review pro se. 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 along with the rest of the filings in this case. See TEX. R. APP. P. 68.3. Any petition for discretionary review should comply with the requirements of Texas Rule of Appellate Procedure 68.4. See *In re Schulman*, 252 S.W.3d at 408 n.22.