

NO. 12-10-00359-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***DANTE KEVIN FAISON, JR.,
APPELLANT***

§

APPEAL FROM THE 159TH

V.

§

JUDICIAL DISTRICT COURT

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

§

ANGELINA COUNTY, TEXAS

***MEMORANDUM OPINION
PER CURIAM***

Dante Kevin Faison, Jr. appeals his convictions for aggravated robbery, for which he was sentenced to imprisonment for forty years. 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). Thereafter, Appellant filed a pro se brief. We dismiss the appeal.

BACKGROUND

Appellant was charged by indictment with aggravated robbery and pleaded "guilty." The matter proceeded to a bench trial on punishment. Ultimately, the trial court found Appellant "guilty" as charged and sentenced him to imprisonment for forty years. 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 *Anders* 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.

Thereafter, Appellant filed a pro se brief in which he raised the following issues: (1) he received ineffective assistance of counsel; (2) his guilty plea was not knowingly or voluntarily given; (3) his appellate attorney filed a frivolous brief on appeal; and (4) there was no evidence to support that Appellant used a firearm during the commission of the offense nor an affirmative finding at trial.¹ We have reviewed the record for reversible error and have found none. See *Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005).

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*. All pending motions are overruled as moot.

As a result of our disposition of this case, Appellant's 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. 68.3.² 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.

¹ We have construed Appellant's statement of issues liberally in the interest of justice. Where possible, we have combined similar or duplicative issues for ease of reference.

² By rule, petitions should be filed directly with the Texas Court of Criminal Appeals. See TEX. R. APP. P. 68.3(a) (effective September 1, 2011).

Opinion delivered September 7, 2011.
Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

(DO NOT PUBLISH)