

**NOS. 12-11-00234-CR  
12-11-00235-CR**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT**

**TYLER, TEXAS**

<i>JUAN MANUEL ALMAGUER, JR., APPELLANT</i>	§	<i>APPEALS FROM THE 159TH</i>
<i>V.</i>	§	<i>JUDICIAL DISTRICT COURT</i>
<i>THE STATE OF TEXAS, APPELLEE</i>	§	<i>ANGELINA COUNTY, TEXAS</i>

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***MEMORANDUM OPINION  
PER CURIAM***

Juan Manuel Almaguer, Jr. appeals his conviction for theft from a person following the revocation of his deferred adjudication community supervision, for which he was sentenced to imprisonment for two years. Appellant also appeals his conviction for third degree felony driving while intoxicated following the revocation of his community supervision, for which he was sentenced to imprisonment for six years. Appellant’s counsel filed briefs in each cause 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 affirm.

**BACKGROUND**

Appellant was charged by indictment with third degree felony driving while intoxicated<sup>1</sup> and pleaded “guilty.” The trial court found Appellant “guilty” as charged and sentenced him to community supervision for six years. Appellant was charged by information with theft from a person and pleaded “guilty.” The trial court deferred finding Appellant “guilty” and placed him

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<sup>1</sup> See TEX. PENAL CODE ANN. § 49.04, 49.09(b)(2) (West Supp. 2012).

on community supervision for five years.

Subsequently, the State filed a motion to revoke Appellant's community supervision in each cause alleging that Appellant had violated certain terms and conditions of his community supervision. A hearing was conducted on the State's motions, at which Appellant pleaded "true" to the allegations in the State's motions. Following the hearing, the trial court found that Appellant had violated the terms and conditions of his community supervision as alleged in the State's motions. Thereafter, the trial court revoked Appellant's community supervision, adjudicated him "guilty" as charged in each cause, and sentenced him to imprisonment for six years for driving while intoxicated and imprisonment for two years for theft from a person. This appeal followed.

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

Appellant's counsel filed briefs in compliance with *Anders v. California* and *Gainous v. State*. In each brief, 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 these cases. In compliance with *Anders*, *Gainous*, and *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. [Panel Op.] 1978), Appellant's briefs present a chronological summation of the procedural history of the cases and further state that Appellant's counsel is unable to raise any arguable issues for appeal.<sup>2</sup> We have likewise reviewed the record in each case for reversible error and have found none.

#### 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 *affirmed*.

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<sup>2</sup> Counsel for Appellant states in his motion to withdraw 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 no pro se brief in compliance with the Texas Rules of Appellate Procedure has been filed.

As a result of our disposition of this appeal, 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 the Texas Court of Criminal Appeals. *See* TEX. R. APP. P. 68.3(a). 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.

Opinion delivered July 31, 2012.

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

(DO NOT PUBLISH)



**COURT OF APPEALS  
TWELFTH COURT OF APPEALS DISTRICT OF TEXAS  
JUDGMENT**

**JULY 31, 2012**

**NOS. 12-11-00234-CR  
12-11-00235-CR**

**JUAN MANUEL ALMAGUER, JR.,**

Appellant

V.

**THE STATE OF TEXAS,**

Appellee

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Appeals from the 159th Judicial District Court  
of Angelina County, Texas. (Tr.Ct.Nos. 28048, 29875)

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THESE CAUSES came to be heard on the appellate record and briefs filed herein, and the same being considered, it is the opinion of this court that there were no errors in the judgments.

It is therefore ORDERED, ADJUDGED and DECREED that Appellant's counsel's motion to withdraw is **granted**, the judgments of the court below **be in all things affirmed**, and that this decision be certified to the court below for observance.

By *per curiam* opinion.

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