

NO. 12-11-00363-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

*LARUE MEEKINS,
APPELLANT*

§

APPEALS FROM THE 7TH

V.

§

JUDICIAL DISTRICT COURT

*THE STATE OF TEXAS,
APPELLEE*

§

SMITH COUNTY, TEXAS

***MEMORANDUM OPINION
PER CURIAM***

Larue Meekins appeals his conviction for delivery of a controlled substance. Appellant's counsel has filed a brief asserting 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 indicted for delivery of a controlled substance, a second degree felony as alleged. The indictment also contained an enhancement, alleging that Appellant had been convicted of a felony, which raised the punishment level to that of a first degree felony. The State and Appellant attempted to negotiate a plea bargain. Appellant executed a document entitled "Agreed Punishment Recommendation," in which an offer for fifty years of imprisonment was made by the State. However, because negotiations broke down and Appellant rejected the offer, the agreed punishment was marked out and initialed by Appellant, and a box was also checked next to "open plea." Appellant later executed a "Waiver of Jury Trial," an "Agreement to Stipulate Testimony," and a "Stipulation of Evidence." He also made an open plea of "guilty" to

the trial court. The trial court found Appellant guilty, and the enhancement to be true, and sentenced Appellant to forty years of imprisonment. The trial court also assessed a lab fee in the amount of \$140.00 as restitution, payable to the Smith County Collections Department, which Appellant had agreed to in the plea papers he executed. This appeal followed.

ANALYSIS PURSUANT TO *ANDERS V. CALIFORNIA*

Appellant's counsel has filed a brief in compliance with *Anders* and *Gainous*. Counsel states that he has diligently reviewed the appellate record and that he is well acquainted with the facts of this case. In compliance with *Anders*, *Gainous*, and *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. 1978), counsel's brief presents a thorough chronological summary of the procedural history of the case and further states that counsel is unable to present any arguable issues for appeal.¹ See *Anders*, 386 U.S. at 745, 87 S. Ct. at 1400; see also *Penson v. Ohio*, 488 U.S. 75, 80, 109 S. Ct. 346, 350, 102 L. Ed. 2d 300 (1988). We have considered counsel's brief and have conducted our own independent review of the record. We have found no reversible error. See *Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005).

CONCLUSION

As required, Appellant's counsel has moved for leave to withdraw. See *In re Schulman*, 252 S.W.3d 403, 407 (Tex. Crim. App. 2008) (orig. proceeding); *Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991). We are in agreement with Appellant's counsel that the appeal is wholly frivolous. Accordingly, his motion for leave to withdraw is hereby **granted**, and we **affirm** the judgment of the trial court. See TEX. R. APP. P. 43.2(b).

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 further review of this case by the Texas Court of Criminal Appeals, he must either retain an attorney to file a petition for discretionary review or he must file a pro se petition for discretionary review. See *In re Schulman*, 252 S.W.3d at 408 n.22. Any petition for discretionary review must be filed within thirty days from the date of either this opinion or the last

¹ Counsel for Appellant certified that he provided Appellant with a copy of his brief and informed Appellant that he had the right to file his own brief. Appellant was given time to file his own brief, but the time for filing such a brief has expired and we have received no pro se brief.

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 clerk of 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 Rule 68.4 of the Texas Rules of Appellate Procedure. *See* TEX. R. APP. P. 68.4; ***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

NO. 12-11-00363-CR

LARUE MEEKINS,
Appellant
V.
THE STATE OF TEXAS,
Appellee

Appeal from the 7th Judicial District Court
of Smith County, Texas. (Tr.Ct.No. 007-0716-11)

THIS CAUSE 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 was no error in the judgment.

It is therefore ORDERED, ADJUDGED and DECREED that Appellant's counsel's motion to withdraw is **granted**, the judgment 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.

THE STATE OF TEXAS M A N D A T E

TO THE 7TH DISTRICT COURT of SMITH COUNTY, GREETING:

Before our Court of Appeals for the 12th Court of Appeals District of Texas, on the 31st day of July, 2012, the cause upon appeal to revise or reverse your judgment between

LARUE MEEKINS, Appellant

NO. 12-11-00363-CR; Trial Court No. 007-0716-11

By *per curiam* opinion.

THE STATE OF TEXAS, Appellee

was determined; and therein our said Court made its order in these words:

“THIS CAUSE 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 was no error in the judgment.

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

WHEREAS, WE COMMAND YOU to observe the order of our said Court of Appeals for the Twelfth Court of Appeals District of Texas in this behalf, and in all things have it duly recognized, obeyed, and executed.

WITNESS, THE HONORABLE JAMES T. WORTHEN, Chief Justice of our Court of Appeals for the Twelfth Court of Appeals District, with the Seal thereof affixed, at the City of Tyler, this the _____ day of _____, 201____.



CATHY S. LUSK, CLERK

By: _____
Deputy Clerk