

NO. 12-12-00036-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***BRENT ALLEN BEALL,
APPELLANT***

§

APPEAL FROM THE 7TH

V.

§

JUDICIAL DISTRICT COURT

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

§

SMITH COUNTY, TEXAS

***MEMORANDUM OPINION
PER CURIAM***

Brent Allen Beall appeals his conviction for possession of child pornography. 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

A Smith County grand jury indicted Appellant for the offense of possession of child pornography. As alleged, the offense was a third degree felony.¹ In October 2010, Appellant pleaded guilty without a plea agreement. The trial court found him guilty, assessed a sentence of imprisonment for ten years, and suspended that sentence for a period of ten years. The trial court ordered Appellant to be placed on community supervision and added a number of additional conditions of community supervision that related to the nature of the offense.

In November 2011, the State filed an application to revoke Appellant's community supervision. The State alleged that Appellant had violated the terms of his community

¹ See TEX. PENAL CODE ANN. § 43.26(a), (d) (West Supp. 2012).

supervision by associating with a person who had been convicted of a crime, by using a computer in an unauthorized fashion, by accessing the internet and employing an email account, and by accessing online environments that allowed for interaction with other users. Finally, the State alleged that Appellant accessed, possessed, or downloaded pornographic materials from internet sites. Appellant was forbidden from engaging in these activities by the terms of his community supervision, and he pleaded true to the allegations in the State's application.

Following a sentencing hearing, the trial court revoked Appellant's previously suspended sentence and assessed a sentence of imprisonment for six years. 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.² 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 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 trial court's judgment. See TEX. R. APP. P. 43.2.

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

² Counsel for Appellant states in his motion to withdraw that he provided Appellant with a copy of his brief and of the record. Appellant was given time to file his own brief. The time for filing such a brief has expired, and we have received no pro se brief.

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 after the date of this opinion or after the date this court overrules the last timely motion for rehearing. *See* TEX. R. APP. P. 68.2(a). 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 September 19, 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**

SEPTEMBER 19, 2012

NO. 12-12-00036-CR

BRENT ALLEN BEALL,
Appellant
V.
THE STATE OF TEXAS,
Appellee

Appeal from the 7th Judicial District Court
of Smith County, Texas. (Tr.Ct.No. 007-0949-10)

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.