NO. 12-12-00047-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

QUIRINIUS DARON WILSON, APPELLANT	***§***	***APPEAL FROM THE 114TH***
V.	***§***	***JUDICIAL DISTRICT COURT***
THE STATE OF TEXAS, APPELLEE	***§***	***SMITH COUNTY, TEXAS***

MEMORANDUM OPINION
PER CURIAM

Quirinius Daron Wilson appeals his conviction for possession of marijuana. 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 affirm.

BACKGROUND

Appellant was charged by indictment with the offense of possession of marijuana in an amount of five pounds or less but more than four ounces, a state jail felony,[1] and entered a plea of guilty to that offense. Appellant and his counsel signed various documents in connection with his guilty plea, including a stipulation of evidence in which Appellant swore, and judicially confessed, that all allegations pleaded in the indictment were true and correct. The trial court accepted Appellant's plea, found that the evidence was sufficient to support a finding of Appellant's guilt, deferred further proceedings without entering an adjudication of guilt, and ordered that Appellant be placed on deferred adjudication community supervision for three years.[2] The trial court also

[1] *See* TEX. HEALTH & SAFETY CODE ANN. § 481.121(a), (b)(3) (West 2010).

[2] *See* TEX. CODE CRIM. PROC. ANN. art. 42.12, § 5(a) (West Supp. 2012).

ordered that Appellant pay court costs and restitution.

Later, the State filed a first amended application to proceed to final adjudication, alleging that Appellant had violated the terms of his community supervision. Appellant and his attorney signed a written plea admonishment and stipulation of evidence in which Appellant admitted as "true" all fifteen paragraphs of the allegations in the State's application. Further, Appellant pleaded "true" to the State's application. The trial court found that Appellant violated the conditions of his community supervision, granted the State's application, and adjudged Appellant guilty as charged as alleged in the indictment. The trial court assessed Appellant's punishment at two years of confinement in a state jail facility, a $10,000 fine, court costs, and restitution to be determined. However, the trial court ordered that imposition of the sentence be suspended and that Appellant be placed on community supervision for a period of five years.[3]

On July 27, 2011, the State filed a first amended application to revoke Appellant's community supervision, alleging that he had violated the terms of his community supervision. Appellant and his attorney signed a written plea admonishment and stipulation of evidence in which Appellant admitted as "true" all seven paragraphs of the allegations in the State's application. At the revocation hearing, Appellant pleaded "true" to all seven paragraphs in the State's application. At the conclusion of the hearing, the trial court found it "true" that Appellant violated the terms of his community supervision, revoked his community supervision, and assessed his punishment at two years of confinement in a state jail facility, a $10,000 fine, and court costs.[4] This appeal followed.

ANALYSIS PURSUANT TO *ANDERS V. CALIFORNIA*

Appellant's counsel filed a brief in compliance with ***Anders*** and ***Gainous***, stating 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. From our review of Appellant's brief, it is apparent that his counsel is well acquainted with the facts in this case. In compliance with ***Anders***, ***Gainous***, and ***High v. State***, 573 S.W.2d 807, 812 (Tex. Crim.

[3] TEX. CODE CRIM. PROC. ANN. art. 42.12, § 3 (West Supp. 2012).

[4] An individual adjudged guilty of a state jail felony shall be punished by confinement in a state jail for any term of not more than two years or less than 180 days and, in addition, a fine not to exceed $10,000. TEX. PENAL CODE ANN. § 12.35(a), (b) (West Supp. 2012).

App. 1978), counsel's brief presents a chronological summation of the procedural history of the case, and further states that counsel is unable to raise any arguable issues for appeal. We have reviewed the record for reversible error and have found none.[5] *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 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 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. 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 October 31, 2012.
Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

(DO NOT PUBLISH)

[5] 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.

COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT OF TEXAS
JUDGMENT

OCTOBER 31, 2012

NO. 12-12-00047-CR

QUIRINIUS DARON WILSON,
Appellant
V.
THE STATE OF TEXAS,
Appellee

Appeal from the 114th Judicial District Court
of Smith County, Texas. (Tr.Ct.No. 114-2189-03)

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.