

**NO. 12-14-00245-CR**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT**

**TYLER, TEXAS**

*JUSTIN CHRISTIAN,  
APPELLANT*

§ *APPEAL FROM THE 2ND*

*V.*

§ *JUDICIAL DISTRICT COURT*

*THE STATE OF TEXAS,  
APPELLEE*

§ *CHEROKEE COUNTY, TEXAS*

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***MEMORANDUM OPINION  
PER CURIAM***

Justin Christian appeals his conviction for the offense of assault (family violence, by occlusion) following the revocation of his community supervision, for which he was sentenced to ten years of imprisonment. Appellant's counsel has 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**

On February 14, 2014, Appellant was charged by information for the offense of assault. The information alleged that Appellant intentionally, knowingly, or recklessly caused bodily injury to Jessica Tracey, a person with whom he had a dating relationship, by intentionally, knowingly, or recklessly impeding her normal breathing or circulation of blood by applying pressure to her throat or neck. Pursuant to a plea agreement, the trial court sentenced Appellant to ten years of imprisonment, but suspended his sentence and placed him on community supervision for seven years.

On May 29, 2014, the State filed a motion to revoke Appellant's community supervision that alleged he committed thirty-one violations of his conditions of community supervision.

Appellant pleaded “not true” to the State’s motion and a hearing was held. The trial court found sixteen of the thirty-one allegations “true,” and sentenced Appellant to ten years of imprisonment. This appeal followed.

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

Appellant’s counsel has filed a brief in compliance with *Anders* and *Gainous*, and states that he has diligently reviewed the appellate record. 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.<sup>1</sup> See *Anders*, 386 U.S. at 745, 87 S. Ct. at 1400; *Gainous*, 436 S.W.2d at 138; 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 also conducted our own independent review of the appellate 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 agree with Appellant’s counsel that the appeal is wholly frivolous. Accordingly, we grant his motion for leave to withdraw, and affirm the judgment of the trial court. See TEX. R. APP. P. 43.2(a).

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 *id.* 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

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<sup>1</sup> Counsel states in his motion to withdraw that he provided Appellant with a copy of his brief. Appellant was given time to file his own brief in this cause. The time for filing such brief has expired, and we have received no pro se brief.

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 July 22, 2015.

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

(DO NOT PUBLISH)



## COURT OF APPEALS

### TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

#### JUDGMENT

JULY 22, 2015

NO. 12-14-00245-CR

JUSTIN CHRISTIAN,  
Appellant  
V.  
THE STATE OF TEXAS,  
Appellee

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Appeal from the 2nd District Court  
of Cherokee County, Texas (Tr.Ct.No. 19062)

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THIS CAUSE came to be heard on the appellate record and brief 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 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., Hoyle, J. and Neeley, J.

