

NO. 12-14-00248-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***ROBERTA WINNIE BAGWELL,
APPELLANT***

§ *APPEAL FROM THE 114TH*

V.

§ *JUDICIAL DISTRICT COURT*

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

§ *SMITH COUNTY, TEXAS*

***MEMORANDUM OPINION
PER CURIAM***

Roberta Winnie Bagwell appeals her conviction for theft. Appellant’s counsel 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 returned an indictment against Appellant for the offense of theft by passing checks without sufficient funds. The indictment alleged numerous occasions of theft and alleged the aggregate value of the property obtained was \$1,500.00 or more but less than \$20,000.00. Pursuant to a plea bargain agreement, the trial court placed Appellant on deferred adjudication community supervision for a period of five years.

The State filed its first amended application to proceed to final adjudication on August 6, 2014, which contained eight paragraphs alleging that Appellant violated her conditions of community supervision. Appellant pleaded “true” to five of the allegations, and a hearing was held. Ultimately, the trial court found seven of the eight allegations “true,” adjudicated Appellant “guilty” of theft, and assessed punishment at two years of confinement. 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.¹ 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 are in agreement with Appellant's counsel that the appeal is wholly frivolous. Accordingly, his motion for leave to withdraw is **granted**, and the judgment of the trial court is **affirmed**. 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, she must either retain an attorney to file a petition for discretionary review or she 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 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

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

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, 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 31, 2015

NO. 12-14-00248-CR

ROBERTA WINNIE BAGWELL,
Appellant
V.
THE STATE OF TEXAS,
Appellee

Appeal from the 114th District Court
of Smith County, Texas (Tr.Ct.No. 114-1742-10)

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.