

**NO. 12-15-00204-CR**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT**

**TYLER, TEXAS**

***RUFUS JOHNSON,  
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***

Rufus Charles Johnson, Jr. appeals his conviction for evading arrest with a motor vehicle. 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**

Officer Steven Markasky testified that he observed Appellant fail to stop at a designated stopping point while driving. After Markasky activated his patrol car’s overhead lights, Appellant continued driving. Markasky activated his siren, but Appellant sped up. Appellant eventually stopped his vehicle and Markasky saw a woman exit the vehicle. Appellant then sped away and Markasky pursued in what he described as a “high speed chase.” At some point, Appellant stopped the vehicle and Markasky arrested Appellant.

The State charged Appellant with the offense of evading arrest with a motor vehicle and alleged a 1993 conviction for possession of a controlled substance and a 2007 conviction for robbery as punishment enhancements. Appellant pleaded guilty to evading arrest with a motor vehicle, “not true” to the 1993 enhancement, and “true” to the 2007 enhancement. A jury found

the two enhancements to be “true” and assessed a punishment of imprisonment for twenty-five years and a \$5,000 fine.

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

Appellant’s counsel filed a brief in compliance with *Anders* and *Gainous*. Appellant’s counsel states that he has reviewed the record and concluded that it reflects no jurisdictional defects or reversible error. In compliance with *Anders*, *Gainous*, and *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. [Panel Op.] 1978), Appellant’s counsel presents a chronological procedural history of the case and a professional evaluation of the record demonstrating why there are no 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 conducted an independent review of the record and have found no reversible error. See *Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005). We conclude the appeal is wholly frivolous.

#### CONCLUSION

As required by *Stafford v. State*, 813 S.W.2d 503 (Tex. Crim. App. 1991), Appellant’s counsel has moved for leave to withdraw. See also *In re Schulman*, 252 S.W.3d 403, 407 (Tex. Crim. App. 2008) (orig. proceeding). Having concluded that this appeal is wholly frivolous, we *grant* counsel’s motion for leave to withdraw and *affirm* the trial court’s judgment.

Appellant’s 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 review of this case by the Texas Court of Criminal Appeals, he must either retain an attorney to file a petition for discretionary review on his behalf or file a petition for discretionary review pro se. Any petition for discretionary review must be filed with Texas Court of Criminal Appeals 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;

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<sup>1</sup> Appellant’s counsel states that he provided Appellant with a copy of the *Anders* brief. Appellant was given time to file his own brief in this cause. The time for filing such a brief has expired and we have received no pro se brief.

68.3(a). Any petition for discretionary review should comply with the requirements of Texas Rule of Appellate Procedure 68.4. See *In re Schulman*, 252 S.W.3d at 408 n.22.

Opinion delivered June 24, 2016.

*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

JUNE 24 2016

NO. 12-15-00204-CR

**RUFUS JOHNSON,**  
Appellant  
V.  
**THE STATE OF TEXAS,**  
Appellee

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Appeal from the 2nd District Court  
of Cherokee County, Texas (Tr.Ct.No. 19320)

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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.*