

**NO. 12-16-00196-CR**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT**

**TYLER, TEXAS**

***JAMES LEON BOSWELL,  
APPELLANT***

§ ***APPEAL FROM THE 114TH***

***V.***

§ ***JUDICIAL DISTRICT COURT***

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

§ ***SMITH COUNTY, TEXAS***

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***MEMORANDUM OPINION  
PER CURIAM***

James Leon Boswell appeals his conviction for felony theft. 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 theft of property valued at \$20,000 or more but less than \$100,000 from an elderly individual. Pursuant to a plea bargain agreement with the State, Appellant pleaded “guilty” to the offense, and the trial court deferred a finding of guilt and placed him on community supervision for a term of ten years.

Subsequently, the State filed an application to proceed to final adjudication. Appellant pleaded “true” to the allegations in the motion. After giving both parties an opportunity to present evidence and arguments, the trial court found Appellant guilty, revoked his community supervision, and assessed his punishment at imprisonment for fifteen years and restitution of \$64,345. This appeal followed.

ANALYSIS PURSUANT TO *ANDERS V. CALIFORNIA*

Appellant’s counsel filed a brief in compliance with *Anders v. California* and *Gainous v. State*. Appellant’s counsel relates that he has reviewed the record and found no reversible error or jurisdictional defects. In compliance with *High v. State*, 573 S.W.2d 807, 812 (Tex. Crim. App. [Panel Op.] 1978), Appellant’s brief contains a professional evaluation of the record demonstrating why there are no arguable grounds to be advanced.<sup>1</sup>

We have considered counsel’s brief and conducted our own independent review of the record. *Id.* at 811. We have found no reversible error.

CONCLUSION

As required by *Anders* and *Stafford v. State*, 813 S.W.2d 503, 511 (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). We carried the motion for consideration with the merits. Having done so, we agree with Appellant’s counsel that the appeal is wholly frivolous. Accordingly, we *grant* counsel’s motion for leave to withdraw and *affirm* the judgment of the trial court.

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 these cases by the Texas Court of Criminal Appeals, he must either retain an attorney to file a petition for discretionary review on his behalf or he must file a pro se petition for discretionary review. Any petition for discretionary review must be filed within thirty days from the date of this court’s judgment or the date the last timely motion for rehearing was overruled by this court. *See* TEX. R. APP. P. 68.2(a). Any petition for discretionary review must be filed with 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 In re Schulman*, 252 S.W.3d at 408 n.22.

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<sup>1</sup> In compliance with *Kelly v. State*, Appellant’s counsel provided Appellant with a copy of the brief, notified Appellant of his motion to withdraw as counsel, informed Appellant of his right to file a pro se response, and took concrete measures to facilitate Appellant’s review of the appellate record. 436 S.W.3d 313, 319 (Tex. Crim. App. 2014). Appellant was given time to file his own brief. The time for filing such a brief has expired and no pro se brief has been filed.

Opinion delivered August 9, 2017.

*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

AUGUST 9, 2017

NO. 12-16-00196-CR

**JAMES LEON BOSWELL,**  
Appellant  
V.  
**THE STATE OF TEXAS,**  
Appellee

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Appeal from the 114th District Court  
of Smith County, Texas (Tr.Ct.No. 114-0952-15)

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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.*