

**NOS. 12-17-00127-CR
12-17-00128-CR**

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

<i>SHEDAIRIA NICHOLE HOGG, APPELLANT</i>	§	<i>APPEALS FROM THE 3RD</i>
<i>V.</i>	§	<i>JUDICIAL DISTRICT COURT</i>
<i>THE STATE OF TEXAS, APPELLEE</i>	§	<i>HENDERSON COUNTY, TEXAS</i>

***MEMORANDUM OPINION
PER CURIAM***

Shedairia Nichole Hogg appeals her convictions for evading arrest, with a previous conviction, and possession of a controlled substance. 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). We affirm.

BACKGROUND

Appellant was charged by indictment with evading arrest, with a previous conviction, and possession of a controlled substance. Appellant entered a plea of “not guilty” to each charge. Appellant waived a jury, and the case proceeded to a trial before the court. Appellant, through her attorney, stipulated that she had a previous conviction for evading arrest. After hearing evidence, the trial court found Appellant “guilty” of evading arrest, with a previous conviction, and possession of a controlled substance. The trial court ordered a pre-sentence investigation. At a separate punishment hearing, the trial court sentenced Appellant to two years of imprisonment for

evading, found the enhancement paragraph to be “true,” and sentenced Appellant to eighteen years of imprisonment for possession of a controlled substance.¹ These appeals followed.

ANALYSIS PURSUANT TO *ANDERS V. CALIFORNIA*

Appellant’s counsel filed a brief in compliance with *Anders v. California*. Appellant’s counsel relates that he has reviewed the appellate record and found no error for our review. In compliance with *High v. State*, 573 S.W.2d 807, 812 (Tex. Crim. App. [Panel Op.] 1978), counsel’s brief contains a thorough professional evaluation of the record demonstrating why there are no arguable grounds to be advanced.² 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 appeals are wholly frivolous. Accordingly, 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 judgments to Appellant and advise her of her 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

¹ The State did not offer documentary proof of the prior conviction alleged in the enhancement paragraph. At the punishment trial, the court indicated it was finding the enhancement paragraph true based on the plea. However, the record indicates that the trial court did not ask Appellant for a plea to the enhancement paragraph. The record from the guilt innocence trial indicates that Appellant’s counsel told the court that Appellant stipulated to the prior conviction, and the court took judicial notice of the prior conviction. We conclude this was not error because a plea of true may be entered by counsel on defendant’s behalf. *Leggett v. State*, 05-16-00923-CR, 2017 WL 1149672, at *2 (Tex. App.—Dallas Mar. 28, 2017, no pet.) (mem. op., not designated for publication) (citing *Tindel v. State*, 830 S.W.2d 135, 137 (Tex. Crim. App. 1992)). A plea of true to an enhancement paragraph is, standing alone, sufficient to support a finding of true without any additional evidence. *See Leggett*, 2017 WL 11499672, at *2 (citing *Wilson v. State*, 671 S.W.2d 524, 525 (Tex. Crim. App. 1984)).

² 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 her 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 her own brief. The time for filing such a brief has expired and no pro se brief has been filed.

Appellant wish to seek review of these cases by the Texas Court of Criminal Appeals, she must either retain an attorney to file a petition for discretionary review on her behalf or she 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.

Opinion delivered October 10, 2018.

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

OCTOBER 10, 2018

NO. 12-17-00127-CR

SHEDAIRIA NICHOLE HOGG,

Appellant

V.

THE STATE OF TEXAS,

Appellee

Appeal from the 3rd District Court
of Henderson County, Texas (Tr.Ct.No. CR16-0198-3)

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.



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

JULY , 2018

NO. 12-17-00128-CR

SHEDAIRIA NICHOLE HOGG,

Appellant

V.

THE STATE OF TEXAS,

Appellee

Appeal from the 3rd District Court
of Henderson County, Texas (Tr.Ct.No. CR16-0469-3)

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.