

NO. 12-19-00038-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

SOLOMON BURKE SQUALLS,
APPELLANT

§ ***APPEAL FROM THE 7TH***

V.

§ ***JUDICIAL DISTRICT COURT***

THE STATE OF TEXAS,
APPELLEE

§ ***SMITH COUNTY, TEXAS***

MEMORANDUM OPINION
PER CURIAM

Solomon Burke Squalls appeals his conviction for burglary of a building. 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 burglary of a building. The indictment further alleged that Appellant previously had been convicted of two felonies. Appellant pleaded “not guilty,” and the matter proceeded to a jury trial.

At trial, the evidence established that Tyler Police Officers were called to the Goodman Museum in response to a report of suspicious activity near the museum’s outdoor bathrooms. The record reflects that officers discovered the door to one of the museum bathrooms to be “busted” and taken off its hinges. Officers who were at the scene testified that the damage was consistent with the door having been pried off in “some sort of forced entry” and some of the damage appeared to have been done with the claw end of a hammer. Damage to the interior of the bathroom was consistent with someone’s attempting to remove plumbing and other fixtures, including copper pipe, which later could be sold.

The record further indicates that upon their arrival at the scene, officers observed Appellant, who was standing near the restrooms and who had a hammer in his possession. The record further reflects that when an officer asked Appellant to “come here,” Appellant attempted to flee. Appellant testified that he regularly comes to the park at night and, on that night, the door already was off its hinges when he arrived at the bathrooms. Appellant further testified that he merely found the hammer there. Further, Appellant explained that he ran from officers that night because he had an outstanding warrant.

Following the presentation of evidence and argument of counsel, the jury found Appellant “guilty” as charged. At the outset of the trial on punishment, Appellant pleaded “true” to the enhancement allegations. Ultimately, the jury found the enhancement allegations to be “true” and assessed Appellant’s punishment at imprisonment for ten years. The trial court sentenced Appellant accordingly, and 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 states that he has diligently reviewed the appellate record and is of the opinion that the record reflects no reversible error and that there is no error upon which an appeal can be predicated. He further relates that he is well acquainted with the facts in this case. In compliance with *Anders*, *Gainous*, and *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. [Panel Op.] 1978), Appellant’s brief presents a chronological summation of the procedural history of the case and further states that Appellant’s counsel is unable to raise any arguable issues for appeal.¹ We likewise have reviewed the record for reversible error and have found none.

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). We carried the motion for consideration with the merits.

¹ 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. See *Kelly v. State*, 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.

Having done so and finding no reversible error, we **grant** Appellant's counsel's motion for leave to withdraw and **affirm** the trial court's judgment.

As a result of our disposition of this case, 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 he must file a petition for discretionary review pro se. Any petition for discretionary review must be filed within thirty days from the date of either this opinion or the date that the last timely motion for rehearing was overruled by this Court. See TEX. R. APP. P. 68.2. 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 Texas Rule of Appellate Procedure 68.4. See ***In re Schulman***, 252 S.W.3d at 408 n.22.

Opinion delivered September 4, 2019.

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

SEPTEMBER 4, 2019

NO. 12-19-00038-CR

SOLOMON BURKE SQUALLS,

Appellant

V.

THE STATE OF TEXAS,

Appellee

Appeal from the 7th District Court
of Smith County, Texas (Tr.Ct.No. 007-1166-18)

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.