

**NOS. 12-19-00161-CR  
12-19-00162-CR**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT**

**TYLER, TEXAS**

***SERGIO LUIS GONZALEZ,  
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***

Sergio Luis Gonzalez appeals two convictions for aggravated assault with a deadly weapon. 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 two counts of aggravated assault with a deadly weapon.<sup>1</sup> He pleaded “guilty,” and the matter proceeded to a bench trial on punishment.

At the punishment trial, the evidence showed that Appellant crashed into another vehicle and then fled in his vehicle. The other driver pursued him until Appellant lost control of the vehicle, exited the roadway, struck a fence, and was unable to move the vehicle. The occupants of the other vehicle and several bystanders approached Appellant, who pointed a gun at two of them. Witnesses heard a clicking noise from the gun as if Appellant was pulling the trigger but

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<sup>1</sup> A second-degree felony. See TEX. PENAL CODE ANN. § 22.02(a)(2), (b) (West 2019).

the gun was not firing. Appellant then fled on foot. Two witnesses testified regarding Appellant's good character.

Ultimately, the trial court assessed Appellant's punishment at imprisonment for eighteen years in each case. In one case, the court additionally assessed \$2,180.00 in restitution related to the vehicle Appellant struck. 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>2</sup>

We considered counsel's brief and conducted our own independent review of the record. *Id.* at 811. We 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 judgments 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 judgments 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 pro se petition for discretionary review. Any petition for discretionary review must be filed

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<sup>2</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 expired and no pro se brief was filed.

within thirty days from either the date of this opinion or the date that 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 June 30, 2020.

*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 30, 2020

NO. 12-19-00161-CR

**SERGIO LUIS GONZALEZ,**

Appellant

V.

**THE STATE OF TEXAS,**

Appellee

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Appeal from the 114th District Court  
of Smith County, Texas (Tr.Ct.No. 114-1578-18)

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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.*



**COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT OF TEXAS**

**JUDGMENT**

**JUNE 30, 2020**

**NO. 12-19-00162-CR**

**SERGIO LUIS GONZALEZ,**

Appellant

V.

**THE STATE OF TEXAS,**

Appellee

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Appeal from the 114th District Court  
of Smith County, Texas (Tr.Ct.No. 114-1579-18)

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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.*