

**NO. 12-22-00093-CR**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT**

**TYLER, TEXAS**

***OCQUALON SPURLOCK,  
APPELLANT***

**§ *APPEAL FROM THE 349TH***

***V.***

**§ *JUDICIAL DISTRICT COURT***

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

**§ *ANDERSON COUNTY, TEXAS***

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***MEMORANDUM OPINION  
PER CURIAM***

Ocqualon Spurlock appeals his conviction 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 aggravated assault with a deadly weapon by intentionally or knowingly threatening a person with imminent bodily injury and using or exhibiting a deadly weapon, to wit: a bat or club, during the commission of the assault, a second degree felony.<sup>1</sup> The State filed a notice of an enhancement, stating that Appellant committed a felony offense prior to the commission of the charged offense. Appellant pleaded “guilty” to the charged offense. Appellant and his counsel signed various documents in connection with his guilty plea, including an “Open Plea of Guilty to the Presiding Judge” and a stipulation of evidence and judicial confession in which Appellant stipulated, and judicially confessed, that each and every allegation contained in the indictment was true and correct and that he was guilty

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<sup>1</sup> TEX. PENAL CODE ANN. § 22.02(a)(2), (b) (West Supp. 2022).

as charged.

At the plea hearing, Appellant pleaded “guilty” to the charged offense and the trial court accepted his plea. At the punishment hearing, Appellant pleaded “true” to the felony enhancement allegation. After the hearing which included evidence and witnesses, the trial court found Appellant competent to stand trial and adjudged him “guilty” of aggravated assault with a deadly weapon. Further, the trial court found the felony enhancement allegation to be “true,” found that Appellant used or exhibited a deadly weapon during the commission of the offense, and assessed his punishment at twenty years of imprisonment.<sup>2</sup> This appeal followed.

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

Appellant’s counsel filed a brief in compliance with *Anders* and *Gainous*, stating that he 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. From our review of counsel’s brief, it is apparent that counsel is well acquainted with the facts in this case. In compliance with *Anders*, *Gainous*, and *High v. State*, 573 S.W.2d 807, 812 (Tex. Crim. App. 1978), counsel’s brief presents a chronological summation of the procedural history of the case, and further states that counsel is unable to raise any arguable issues for appeal.<sup>3</sup> We have reviewed the record for reversible error and have found none. See *Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005).

#### CONCLUSION

As required by *Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991), Appellant’s counsel 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 and finding no reversible error, Appellant’s counsel’s motion for leave

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<sup>2</sup> If it is shown on the trial of a felony of the second degree that the defendant has previously been finally convicted of a felony other than a state jail felony punishable under Section 12.35(a), on conviction the defendant shall be punished for a felony of the first degree. *Id.* § 12.42(b) (West 2019). An individual adjudged guilty of a first degree felony shall be punished by imprisonment for life or for any term of not more than ninety-nine years or less than five years, and a fine not to exceed \$10,000.00. *Id.* § 12.32.

<sup>3</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. 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 brief has expired and no pro se brief has been filed.

to withdraw is hereby **granted**, and the trial court's judgment is **affirmed**. See TEX. R. APP. P. 43.2.

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*, 22 S.W.3d at 411 n.35. Should Appellant wish to seek further review of this case by the Texas Court of Criminal Appeals, he must either retain an attorney to file a petition for discretionary review or he must file a pro se petition for discretionary review. See *In re Schulman*, 22 S.W.3d at 408 n.22. Any petition for discretionary review must be filed within thirty days from the date of either this opinion, or if a motion for rehearing is filed, the date that the last timely motion for rehearing is 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. Any petition for discretionary review should comply with the requirements of Rule 68.4 of the Texas Rules of Appellate Procedure. See TEX. R. APP. P. 68.4; *In re Schulman*, 22 S.W.3d at 408 n. 22.

Opinion delivered December 7, 2022.

*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

DECEMBER 7, 2022

NO. 12-22-00093-CR

**OCQUALON SPURLOCK,**  
Appellant  
V.  
**THE STATE OF TEXAS,**  
Appellee

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Appeal from the 349th District Court  
of Anderson County, Texas (Tr.Ct.No. 349CR-20-34467)

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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.*