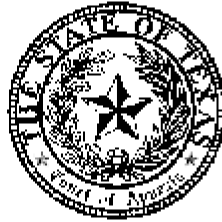
Affirmed and Opinion filed February 1, 2001.



In The

Fourteenth Court of Appeals

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NO. 14-99-01245-CR

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JUAN EDMUNDO TREVINO, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 338th District Court
Harris County, Texas
Trial Court Cause No. 811,847

O P I N I O N

Appellant entered a guilty plea to the felony offense of possession of a controlled substance with intent to deliver, without an agreed recommendation on punishment from the State. The court assessed punishment at confinement in the Institutional Division of the Texas Department of Criminal Justice for five years.

Appellant's counsel is retained. He filed a brief in which, after reviewing the record, he concludes that the appeal is wholly frivolous and without merit, purportedly under the authority of *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396 (1967). The *Anders* procedural safeguards are not

applicable, however, to an appellant who is represented by a retained attorney. *See Nguyen v. State,* 11 S.W.3d 376, 379 (Tex. App.–Houston [14th Dist.] 2000, no pet.).

Appellant's counsel has filed a motion to withdraw, which the Court granted, after assuring his compliance with Texas Rule of Appellate Procedure 6.5. The Court ordered the *Anders* brief stricken and gave appellant thirty days to obtain new counsel to file a brief on his behalf or file a *pro se* brief. More than forty-five days have elapsed, and appellant has not filed a *pro se* brief or had an attorney file a new brief on his behalf.

We have reviewed the record on appeal and agree with appellant's former appellate attorney that the appeal lacks merit.

Accordingly, we affirm the judgment of the trial court.

PER CURIAM

Judgment rendered and Opinion filed February 1, 2001.
Panel consists of Justices Yates, Wittig and Frost.
Do not publish — TEX. R. APP. P. 47.3(b).