

Affirmed and Opinion filed April 19, 2001.



In The

Fourteenth Court of Appeals

NO. 14-00-00979-CR

ROBERT CHARLES HOOD, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 182nd District Court
Harris County, Texas
Trial Court Cause No. 847,749**

MEMORANDUM OPINION

Appellant appeals his conviction for possession of cocaine. After waiving indictment, appellant pleaded guilty pursuant to a plea bargain agreement. The court followed the plea bargain and assessed punishment at confinement for eight months in the State Jail Division, Texas Department of Criminal Justice.

Appellant's appointed counsel filed an *Anders* brief in which he concludes that the appeal is wholly frivolous and without merit. The brief meets the requirements of *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), by presenting a professional evaluation of the record

demonstrating why there are no arguable grounds to be advanced. *See High v. State*, 573 S.W.2d 807 (Tex. Crim. App. 1978).

A copy of counsel's brief was delivered to appellant. Appellant was advised of the right to examine the appellate record and to file a *pro se* response. As of this date, no *pro se* response has been filed.

In spite of a request from this court, appointed counsel on appeal failed to file a motion to withdraw from representation of appellant. After appointed counsel concludes that an appeal is frivolous, he should request permission from this court to withdraw from the appeal. *See McCoy v. Court of Appeals of Wisconsin, Dist. 1*, 486 U.S. 429, 437, 108 S. Ct. 1895, 1901, 100 L.Ed.2d 440 (1988); *Johnson v. State*, 885 S.W.2d 641, 645 (Tex. App.—Waco 1994, pet. ref'd). The requirements for filing a motion to withdraw are explained in our opinion in *Nguyen v. State*. *See Nguyen v. State*, 11 S.W.3d 376, 379 (Tex. App.—Houston [14th Dist.] 2000, no pet.).

Despite counsel's failure to follow correct *Anders* procedure, we are not prohibited from deciding the appeal. *See Smith v. Robbins*, 528 U.S. 259, 120 S.Ct. 746, 145 L.Ed.2d 756 (2000) (Court approved of California procedure for filing frivolous appeals which did not require counsel to file a motion to withdraw in the appeals court, holding that *Anders* procedure is merely one method of satisfying the constitutional requirements for affording adequate appellate review for criminal indigents). We have carefully reviewed the record and counsel's brief and agree that the appeal is wholly frivolous and without merit. Further, we find no reversible error in the record. A discussion of the brief would add nothing to the jurisprudence of the State.

Accordingly, the judgment of the trial court is affirmed.

PER CURIAM

Judgment rendered and Opinion filed April 19, 2001.

Panel consists of Justices Yates, Fowler and Wittig.

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