Dismissed and Opinion filed July 20, 2000.

In The

Fourteenth Court of Appeals

NO. 14-99-00152-CR

LARRY WAYNE MENEFEE, JR., Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 248th District Court
Harris County, Texas
Trial Court Cause No. 788,114

O P I N I O N

Appellant entered a plea of no contest to delivery of a controlled substance, namely cocaine, weighing more than 4 grams and less than 200 grams. Appellant also entered a plea of true to an enhancement paragraph for a previous felony conviction of delivery of a controlled substance. Appellant had entered a plea bargain with the State for fifteen years punishment in the Texas Department of Criminal Justice- Institutional Division, and the trial court assessed the same punishment. A notice of appeal was filed with the trial court. In an appeal hearing, the trial court appointed counsel for the appeal, but did not give the appellant permission to appeal.

Appellant's appointed counsel filed a 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. Appellant filed a pro se response, and in eight arguments, he declared that he had ineffective assistance of counsel because his trial counsel failed to file a motion to suppress, or other motions in the case; did not inform the appellant about the full range of punishment if he were to be found guilty; did not investigate the appellant's case; did not discuss the case with the appellant; missed court appearances; did not inform the appellant he had been indicted and never gave the appellant a copy of the indictment; and did not fully proceed with appellant's case because trial counsel had been arrested for a cocaine offense.

If an appeal is from a judgment rendered on a defendant's plea of guilty or nolo contendere, and the punishment assessed does not exceed the punishment recommended by the prosecutor and agreed to by the defendant, the notice must specify that: (1) the appeal is for a jurisdictional defect; (2) the substance of the appeal was raised by written motion and ruled on before trial; or (3) the trial court granted permission to appeal. *See* TEX. R. APP. P. 25.2(b)(3). Appellant did not specify a jurisdictional defect nor is his appeal based upon a written motion which was ruled on before trial. Further, the trial court did not grant the appellant permission to appeal. Appellant has not complied with Rule 25.2(b)(3), and therefore we have no jurisdiction to hear the appeal.

Even if this court had jurisdiction to consider the appeal, we would find appellant's allegations of ineffectiveness of counsel without merit. Rarely will a reviewing court be provided the opportunity to make its determination on direct appeal with a record capable of providing a fair evaluation of the merits of the claim involving such a serious allegation. As in the majority of instances, the record in this case is simply undeveloped and cannot adequately reflect the failings of trial counsel. *See Thompson v. State*, 9

S.W.3d 808 (Tex. (Tex. Crim. App. 1999); *Jackson v. State*, 973 S.W.2d 954 (Tex. Crim. App. 1998).

Because we lack jurisdiction, we dismiss this appeal.

PER CURIAM

Judgment rendered and Opinion filed July 20, 2000.
Panel consists of Justices Yates, Fowler, and Edelman.
Do Not Publish — TEX. R. APP. P. 47.3(b).