

COURT OF APPEALS OF TEXAS, TWELFTH COURT OF APPEALS DISTRICT

Miranda West v. State

No. 12-22-00085-CR · No. 12-22-00085-CR · Decided November 17, 2022

SUMMARY

The Texas Twelfth Court of Appeals affirmed Miranda West’s conviction for aggravated assault after revoking her deferred adjudication community supervision and sentencing her to seven years’ imprisonment. In an Anders review, the court found no reversible error, granted appointed counsel’s motion to withdraw, and affirmed the trial court’s judgment.

CASE DETAILS

COURT	Court of Appeals of Texas, Twelfth Court of Appeals District
WRITING FOR THE COURT	Per curiam; Chief Justice Worthen; Justice Hoyle; Justice Neeley
JURISDICTION	Texas
DECIDED	November 17, 2022
DOCKET	12-22-00085-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the revocation of deferred adjudication community supervision, adjudication of guilt for aggravated assault, and a seven-year prison sentence. Appellant’s appointed counsel filed an Anders brief, and Appellant filed a pro se response.
STANDARD OF REVIEW	The court conducted an independent review of the record for reversible error under the Anders procedure.
PRECEDENTIAL VALUE	Nonprecedential; do not publish
PARTIES	Miranda West v. The State of Texas

TOPICS

- appellate procedure
- criminal procedure
- probation
- right to counsel

PRACTICE AREAS

- criminal appellate procedure
- Anders appeals
- deferred adjudication community supervision
- aggravated assault

QUESTIONS PRESENTED

1. Whether the record contained any reversible error requiring reversal of West's conviction or sentence under the Anders review procedure.
2. Whether appointed appellate counsel should be permitted to withdraw after filing an Anders brief and complying with the required procedures.

HOLDINGS

1. After independently reviewing the record in accordance with the Anders procedure, the court found no reversible error and affirmed the trial court's judgment.
2. The court granted appointed counsel's motion for leave to withdraw after determining that counsel complied with the Anders-related requirements and that no reversible error existed.

KEY QUOTATIONS

"We have reviewed the record for reversible error and have found none."

"Having done so and finding no reversible error, Appellant's counsel's motion for leave to withdraw is hereby granted, and the trial court's judgment is affirmed."

FACTUAL BACKGROUND

West was indicted for aggravated assault by causing bodily injury with a knife, a deadly weapon. She pleaded guilty under an agreed punishment cap of seven years, and the trial court deferred adjudication and imposed ten years of community supervision. The State later alleged that she failed to report during several months and tested positive for cocaine; West pleaded true to those violations. The trial court revoked supervision, adjudicated her guilty, and imposed seven years' imprisonment.

PROCEDURAL HISTORY

West pleaded guilty to aggravated assault involving a knife. The trial court deferred adjudication and placed her on ten years of community supervision. After the State alleged violations involving failures to report and a positive cocaine test, West pleaded true to those allegations; the trial court revoked community supervision, adjudicated her guilty, and sentenced her to seven years' imprisonment. The Twelfth Court of Appeals reviewed the record under Anders and affirmed, while granting counsel's motion to withdraw.

DISPOSITION

affirmed

CASES CITED

- Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967)
- Gainous v. State, 436 S.W.2d 137 (Tex. Crim. App. 1969)
- High v. State, 573 S.W.2d 807, 812 (Tex. Crim. App. 1978)
- Kelly v. State, 436 S.W.3d 313, 319 (Tex. Crim. App. 2014)

- Bledsoe v. State, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005)
- Stafford v. State, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991)
- In re Schulman, 252 S.W.3d 403, 407 (Tex. Crim. App. 2008) (orig. proceeding)
- In re Schulman, 22 S.W.3d 403, 408 n.22, 411 n.35

OPINION

PER CURIAM.

NO. 12-22-00085-CR IN THE COURT OF APPEALS TWELFTH COURT OF APPEALS DISTRICT TYLER, TEXAS MIRANDA WEST, § APPEAL FROM THE APPELLANT V. § CRIMINAL DISTRICT COURT THE STATE OF TEXAS, APPELLEE § JEFFERSON COUNTY, TEXAS MEMORANDUM OPINION PER CURIAM Miranda West appeals her conviction for aggravated assault. 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). Appellant filed a pro se response. We affirm. BACKGROUND Appellant was charged by indictment with aggravated assault by intentionally, knowingly, and recklessly causing bodily injury to a person by the use of a deadly weapon, namely, a knife, that in the manner of its use and intended use was capable of causing serious bodily injury and death, by stabbing that person with a knife, a second degree felony.

1 Appellant pleaded “guilty” to the charged offense. Appellant and her counsel signed various documents in connection with her guilty plea, including (1) an agreed punishment recommendation that stated Appellant’s punishment would not exceed a cap of seven years of imprisonment, and (2) a document entitled “Written Plea Admonishments” which included a “Stipulation, Waivers & Judicial Admission” in which Appellant stipulated, and judicially confessed, that each and every 1 TEX. PENAL CODE ANN. § 22.02 (a) (2), (b) (West Supp. 2022). allegation contained in the indictment was true and correct and constituted the evidence in the case.

At the hearing, Appellant pleaded “guilty” to the charged offense. The trial court accepted Appellant’s plea, found the evidence sufficient to substantiate Appellant’s guilty plea, deferred further proceedings without entering an adjudication of guilt, and ordered that Appellant be placed on deferred adjudication community supervision for ten years. Later, the State filed a motion to revoke deferred adjudication community supervision, alleging that Appellant violated the terms of her community supervision including the allegations in paragraphs (1) failing to report to the community supervision and corrections department for the months of June, July, August, and September 2021, and (4) a urine sample provided by Appellant on June 2021 tested positive for cocaine.

At the hearing on the State's motion to revoke, Appellant pleaded "true" to the allegations in paragraphs (1) and (4) of the State's motion. After the hearing, the trial court found all the allegations contained in paragraphs (1) and (4) of the State's motion to be "true," granted the State's motion, revoked Appellant's community supervision, adjudged Appellant "guilty" of aggravated assault, and assessed her punishment at seven years of imprisonment.

2 The trial court also found that Appellant used a deadly weapon, namely, a knife, during the commission of a felony offense or during immediate flight therefrom or was a party to the offense and knew that a deadly weapon would be used or exhibited. 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.

3 2 An individual adjudged guilty of a second degree felony shall be punished by imprisonment for any term of not more than twenty years or less than two years, and a fine not to exceed \$10,000.00. TEX. PENAL CODE ANN. § 12.33 (West 2019). 3 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 her right to file a pro se response, 2 Appellant filed a pro se response, stating that she believed she was unjustly sentenced to the full "cap" of seven years when her community supervision violations were "only [two], a dirty [urinary analysis] and one no show." Further, she alleged that her court appointed counsel told her that she would be agreeing to "one thing and it turned out to be another." 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 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 her of her 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, she must either retain an attorney to file a petition for discretionary review or she 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 November 17, 2022.

Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J. (DO NOT PUBLISH) 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). 3 COURT OF APPEALS TWELFTH COURT OF APPEALS DISTRICT OF TEXAS JUDGMENT NOVEMBER 17, 2022 NO. 12-22-00085-CR MIRANDA WEST, Appellant V. THE STATE OF TEXAS, Appellee Appeal from the Criminal District Court of Jefferson County, Texas (Tr.Ct.No.

20-33811) THIS CAUSE came to be heard on the appellate record and briefs 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.