

COURT OF APPEALS OF TEXAS, FIFTH DISTRICT AT DALLAS

Mario Lopez Jucup v. The State of Texas

No. 05-13-00878-CR · No. 05-13-00878-CR · Decided March 6, 2015

SUMMARY

This document is Mario Lopez Jucup’s pro se Petition for Discretionary Review to the Texas Court of Criminal Appeals in CCA No. PD-1623-14, arising from a Dallas Court of Appeals decision affirming his conviction. The petition challenges Anders appellate procedures, the waiver of counsel and jury trial, the trial court’s handling of appointed counsel, and the calculation of back-time credit. It asks the Court of Criminal Appeals to grant review and clarify the duties of counsel and appellate courts in Anders appeals.

CASE DETAILS

COURT	Court of Appeals of Texas, Fifth District at Dallas
WRITING FOR THE COURT	Justice FitzGerald; Justice Lang; Justice Brown
JURISDICTION	Texas
DECIDED	March 6, 2015
DOCKET	05-13-00878-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Anders appeal from a bench-trial conviction for continuous sexual abuse of a young child. Appointed appellate counsel filed an Anders brief stating that the appeal was wholly frivolous. The defendant filed a pro se response.
STANDARD OF REVIEW	In an Anders appeal, the appellate court must independently examine the entire record to determine whether any arguable ground supports the appeal; if the appeal is wholly frivolous, the court may affirm. The court may modify the judgment under Texas Rule of Appellate Procedure 43.2(b) when the record supports correction.
PRECEDENTIAL VALUE	unpublished memorandum opinion; not for publication
PARTIES	Mario Lopez Jucup v. The State of Texas

TOPICS

- appellate procedure
- right to counsel
- criminal procedure
- standard of review

PRACTICE AREAS

criminal appellate procedure

criminal procedure

right to counsel

QUESTIONS PRESENTED

1. Whether the Anders brief adequately demonstrated that the appeal was wholly frivolous and without merit.
2. Whether the record contained any arguable ground for appeal.
3. Whether the appellate court could modify the judgment to correct the sex-offender-registration designation and the victim's age.

HOLDINGS

1. After independently reviewing the Anders brief, the appellant's pro se response, and the record, the court found nothing that might arguably support the appeal and concluded that the appeal was frivolous and without merit.
2. The court modified the judgment to state that sex-offender-registration requirements apply to Jucup and that the victim was ten years old.

KEY QUOTATIONS

"After reviewing counsel's brief, appellant's pro se response, and the record, we agree the appeal is frivolous and without merit." (at 2)

"We find nothing in the record that might arguably support the appeal." (at 2)

"As modified, we affirm the trial court's judgment." (at 2)

FACTUAL BACKGROUND

Jucup was charged with continuous sexual abuse of a young child. He waived a jury, pleaded not guilty, and represented himself at trial. The trial court found him guilty and assessed thirty years' imprisonment. The record showed that the trial court informed Jucup that sex-offender-registration requirements applied and that the victim was ten years old, but the written judgment incorrectly stated that registration requirements did not apply.

PROCEDURAL HISTORY

Jucup was convicted in the 265th Judicial District Court of Dallas County after waiving a jury and pleading not guilty to continuous sexual abuse of a young child. The trial court assessed thirty years' imprisonment. The Fifth District Court of Appeals independently reviewed the Anders brief, the pro se response, and the record, modified the judgment to reflect applicable sex-offender-registration requirements and the victim's age, and affirmed as modified.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The trial court was ordered to issue an amended judgment reflecting that sex-offender-registration requirements apply and that the victim's age was ten years, and to include any other language required by the Texas sex-offender-registration statutes.

CASES CITED

- *Anders v. California*, 386 U.S. 738 (1967)
- *High v. State*, 573 S.W.2d 807, 811-12 (Tex. Crim. App. 1978)
- *Kelly v. State*, 436 S.W.3d 313, 319-21 (Tex. Crim. App. 2014)
- *Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005)
- *Bigley v. State*, 865 S.W.2d 26, 27-28 (Tex. Crim. App. 1993)
- *Asberry v. State*, 813 S.W.2d 526, 529-30 (Tex. App.—Dallas 1991, pet. ref'd)