

COURT OF APPEALS, SIXTH APPELLATE DISTRICT OF TEXAS AT
TEXARKANA

Simon Rico, Jr. v. The State of Texas

Rico · No. 06-24-00218-CR · Decided March 18, 2026

SUMMARY

The Sixth Court of Appeals of Texas affirmed Simon Rico, Jr.'s conviction and eighteen-year sentence for manslaughter. The court held that retained counsel properly sought withdrawal under Texas Rule of Appellate Procedure 6.5 after determining the appeal was frivolous, and that Anders procedures applicable to appointed counsel did not apply. After independently reviewing the record, the court found no arguable issue warranting reversal.

CASE DETAILS

COURT	Court of Appeals, Sixth Appellate District of Texas at Texarkana
WRITING FOR THE COURT	Jeff Rambin; Chief Justice Stevens; Justice van Cleef; Justice Rambin
JURISDICTION	Court of Appeals, Sixth Appellate District of Texas at Texarkana
DECIDED	March 18, 2026
DOCKET	06-24-00218-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment imposing an eighteen-year prison sentence after appellant pleaded guilty to manslaughter. Retained appellate counsel moved to withdraw under Texas Rule of Appellate Procedure 6.5, represented that the appeal was frivolous, and filed an Anders-related submission that the court accepted but did not file.
STANDARD OF REVIEW	The court independently reviewed the appellate record to determine whether retained counsel's representation that the appeal was frivolous was accurate.
PRECEDENTIAL VALUE	Unpublished memorandum opinion; marked Do Not Publish.
PARTIES	Simon Rico, Jr. v. The State of Texas

TOPICS

- appellate procedure
- criminal procedure
- right to counsel

PRACTICE AREAS

criminal appellate procedure

criminal procedure

right to counsel

QUESTIONS PRESENTED

1. Whether retained appellate counsel was required to file an Anders brief when counsel determined that Rico's appeal was frivolous.
2. Whether retained counsel complied with Texas Rule of Appellate Procedure 6.5 by informing the court that the appeal lacked merit and seeking leave to withdraw.
3. Whether independent review of the appellate record disclosed any arguable issue warranting reversal.

HOLDINGS

1. The constitutional protections and Anders procedures applicable to indigent appellants represented by appointed counsel do not apply to an appellant who has retained counsel; retained counsel is not required to file an Anders brief.
2. Retained counsel complied with Texas Rule of Appellate Procedure 6.5 by representing that counsel had thoroughly reviewed the record, found no arguable grounds for reversal, informed the court that the appeal was frivolous, sought leave to withdraw, and represented that Rico received a copy of the motion.
3. The appellate court's independent review disclosed no arguable issue warranting reversal, so the trial court's judgment was affirmed.

KEY QUOTATIONS

“The constitutional protections afforded indigent appellants with appointed counsel do not apply to an appellant who has retained counsel.” (at 2)

“Thus, only appointed counsel is required to file an Anders brief. Retained counsel is not required to do so.” (at 2)

“Yet, ‘in the interest of justice, we undertook an independent review of the appellate record to determine whether [the] representation regarding the frivolousness of the appeal was accurate.’” (at 3)

FACTUAL BACKGROUND

Rico pleaded guilty to manslaughter, a second-degree felony, and the trial court sentenced him to eighteen years' imprisonment. Although the trial court found Rico indigent and appointed appellate counsel, appointed counsel was replaced by retained counsel. Retained counsel reviewed the complete appellate record, concluded that there were no arguable grounds for reversal, and sought withdrawal under Texas Rule of Appellate Procedure 6.5.

PROCEDURAL HISTORY

Rico pleaded guilty to manslaughter in the 354th District Court of Hunt County, which sentenced him to eighteen years' imprisonment. After initially being represented by appointed appellate counsel, Rico substituted retained counsel. Retained counsel moved to withdraw under Rule 6.5 after reviewing the record and finding no

arguable grounds for reversal. The appellate court granted the motion, allowed Rico to file a pro se brief, received no response, independently reviewed the record, found no arguable issue, and affirmed.

DISPOSITION

affirmed

CASES CITED

- Anders v. California, 386 U.S. 738, 743-44 (1967)
- Torres v. State, 271 S.W.3d 872, 873 (Tex. App.—Amarillo 2008, no pet.)
- Rivera v. State, 130 S.W.3d 454, 458 (Tex. App.—Corpus Christi–Edinburg 2004, no pet.)
- Lopez v. State, 283 S.W.3d 479, 480-81 (Tex. App.—Texarkana 2009, no pet.)
- Zarate v. State, 2025 WL 952229, at *1 (Tex. App.—Amarillo March 28, 2025, no pet.)
- Eaglin v. State, 710 S.W.3d 833, 850 (Tex. App.—Houston [1st Dist.] 2024, pet. ref'd)
- Zarate v. State, 2020 WL 952229, at *1

OPINION

PER CURIAM.

In the Court of Appeals Sixth Appellate District of Texas at Texarkana No. 06-24-00218-CR SIMON RICO, JR., Appellant V. THE STATE OF TEXAS, Appellee On Appeal from the 354th District Court Hunt County, Texas Trial Court No. 34767CR Before Stevens, C.J., van Cleef and Rambin, JJ. Memorandum Opinion by Justice Rambin MEMORANDUM OPINION After Simon Rico, Jr., pled guilty to manslaughter, a second-degree felony, the trial court sentenced him to eighteen years' imprisonment.

See TEX. PENAL CODE ANN. § 19.04. For the reasons stated below, we affirm the trial court's judgment. Rico filed a notice of appeal on December 13, 2024. The clerk's record was filed on March 19, 2025, and the reporter's record was filed on March 20, 2025.

On April 3, 2025, Rico's court-appointed appellate counsel filed a joint motion to substitute counsel with counsel Rico had retained. Thereafter, Rico's retained counsel filed a motion to withdraw and presented this Court with an Anders brief,¹ which we accepted but did not file. Noting that "[t]he provisions of Anders v. California do not apply to retained counsel," Torres v. State, 271 S.W.3d 872, 873 (Tex.

App.—Amarillo 2008, no pet.), we extended time to retained counsel for the purpose of (1) informing the Court that the appeal had no merit and (2) seeking leave to withdraw in compliance with Rule 6.5 of the Texas Rules of Appellate Procedure. Retained counsel subsequently filed an amended motion to withdraw pursuant to Rule 6.5, stating that after a diligent and thorough review of the entire appellate record, including the clerk's record and all volumes of the reporter's

record, he determined that there are no arguable grounds for reversal and that the appeal is wholly without merit.

Having determined that retained counsel satisfied the requisites of Rule 6.5, we granted retained counsel's motion to withdraw on September 23, 2025. ¹ See *Anders v. California*, 386 U.S. 738, 743–44 (1967). ² “The constitutional protections afforded indigent appellants with appointed counsel do not apply to an appellant who has retained counsel.” ² *Rivera v. State*, 130 S.W.3d 454, 458 (Tex.

App.—Corpus Christi—Edinburg 2004, no pet.) (collecting cases); see *Lopez v. State*, 283 S.W.3d 479, 480 (Tex. App.—Texarkana 2009, no pet.); *Zarate v. State*, No. 07-24-00293-CR, 2025 WL 952229, at *1 (Tex. App.—Amarillo March 28, 2025, no pet.) (mem. op., not designated for publication). “This is so because by securing retained counsel, the appellant has received all that *Anders* was designed to ensure.” *Lopez*, 283 S.W.3d at 480; *Zarate*, 2025 WL 952229, at *1 (quoting *Lopez*, 283 S.W.3d at 480). “Thus, only appointed counsel is required to file an *Anders* brief.

Retained counsel is not required to do so.” *Rivera*, 130 S.W.3d at 458. “Nonetheless, like their counterparts who have been appointed, retained counsel also have an ethical obligation to refuse to pursue a frivolous appeal.” *Lopez*, 283 S.W.3d at 480; see *Zarate*, 2025 WL 952229, at *1. “So, when counsel encounters such an appeal, he must inform the appellate court of it and seek leave to withdraw in compliance with Rule 6.5 of the Texas Rules of Appellate Procedure.” *Id.*; *Zarate*, 2025 WL 952229, at *1. “Then, we need only address whether counsel complied with that rule.” *Id.* at 481; see *Zarate*, 2025 WL 952229, at *1.

By our granting of Rico's retained counsel's motion to withdraw under Rule 6.5, we indicated that he had complied. Here, Rico's retained counsel represented to the Court that he reviewed the appellate record and discovered no arguable grounds for reversal. Further, retained counsel represented that he provided Rico a copy of the motion to withdraw.

The Court informed Rico that we ² Although the trial court found Rico to be indigent and appointed counsel for him on appeal, “the replacement of appointed counsel with retained counsel after a finding of indigency rebuts the presumption of continued indigency.” *Eaglin v. State*, 710 S.W.3d 833, 850 (Tex. App.—Houston [1st Dist.] 2024, pet. ref'd).

We find that Rico is not indigent. ³ granted retained counsel's motion to withdraw on September 23, 2025, and that Rico's pro se brief was due on October 23, 2025. We later informed Rico that the matter had been set for submission on November 24, 2025.

We have not received any response from Rico. “We know of no rule that obligates us to retain an appeal on our docket which Appellant has represented, through his hired attorney, is frivolous simply because the appellant failed to respond to his attorney's motion to withdraw or the

accompanying brief.” Zarate, 2020 WL 952229, at *1. Yet, “in the interest of justice, we undertook an independent review of the appellate record to determine whether [the] representation regarding the frivolousness of the appeal was accurate.” Id.; Lopez, 283 S.W.3d at 481.

We likewise detected no arguable issue warranting reversal. We affirm the judgment of the trial court. Jeff Rambin Justice Date Submitted: November 24, 2025 Date Decided: March 18, 2026 Do Not Publish 4