

COURT OF APPEALS FOR THE SIXTH APPELLATE DISTRICT OF TEXAS AT
TEXARKANA

Everett Henry Aker, Jr. v. the State of Texas

No. 06-25-00097-CR (Tex. App.—Texarkana Dec. 23, 2025) · No. No. 06-25-00097-CR · Decided December 23, 2025

SUMMARY

The Sixth Court of Appeals of Texas affirmed Everett Henry Aker, Jr.'s conviction for possession of four grams or more but less than 200 grams of methamphetamine after conducting an Anders review and finding no reversible error. The court modified the judgment to correctly identify methamphetamine as a Penalty Group 1 controlled substance and granted appellate counsel's motion to withdraw.

CASE DETAILS

COURT	Court of Appeals for the Sixth Appellate District of Texas at Texarkana
WRITING FOR THE COURT	Scott E. Stevens, Chief Justice; Charles van Cleef, Justice; Randy Rambin, Justice
JURISDICTION	Court of Appeals for the Sixth Appellate District of Texas at Texarkana
DECIDED	December 23, 2025
DOCKET	No. 06-25-00097-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Aker appealed his jury conviction for possession of four grams or more but less than 200 grams of methamphetamine. Appointed appellate counsel filed an Anders brief and moved to withdraw, asserting that the record presented no genuinely arguable grounds for appeal.
STANDARD OF REVIEW	Independent review of the entire appellate record for reversible error under Anders and Bledsoe.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Everett Henry Aker, Jr. v. The State of Texas

TOPICS

- appellate procedure
- criminal procedure
- statutory interpretation
- standard of review
- preservation of error

PRACTICE AREAS

criminal law

criminal appellate procedure

controlled substances

QUESTIONS PRESENTED

1. Whether appointed appellate counsel satisfied the requirements of *Anders v. California* by filing a brief demonstrating that the record contained no genuinely arguable grounds for appeal.
2. Whether the appellate court's independent review disclosed reversible error.
3. Whether the court could modify the judgment to correct its erroneous classification of methamphetamine as a Penalty Group 1-B rather than a Penalty Group 1 controlled substance.
4. Whether counsel should be permitted to withdraw after the court determined that the appeal presented no reversible error.

HOLDINGS

1. Counsel's professional evaluation of the record, explaining why there were no arguable grounds for appeal, satisfied the requirements of *Anders v. California*.
2. The court's independent review of the entire appellate record revealed no reversible error.
3. The appellate court may modify a trial court's judgment to make it speak the truth when the necessary information is available in the record, and it therefore modified the judgment to state that Aker was convicted of possessing a Penalty Group 1 controlled substance.
4. Counsel's motion to withdraw was granted because the appeal presented no reversible error; no substitute counsel was appointed.

KEY QUOTATIONS

“Appellate courts have the authority to modify judgments to speak the truth when we have the necessary information before us to do so.” (opinion at 2)

“We have reviewed the entire appellate record and have independently determined that no reversible error exists.” (opinion at 2)

FACTUAL BACKGROUND

Aker was convicted by a Lamar County jury of possessing four grams or more but less than 200 grams of methamphetamine. The trial court's judgment incorrectly described methamphetamine as a Penalty Group 1-B controlled substance, although the applicable statute classifies methamphetamine as a Penalty Group 1 controlled substance. The appellate record otherwise presented no reversible error.

PROCEDURAL HISTORY

A Lamar County jury convicted Aker of possession of four grams or more but less than 200 grams of methamphetamine. On appeal, counsel filed an *Anders* brief and motion to withdraw; Aker received the record and notice of his right to file a pro se response but filed none. The court independently reviewed the record,

found no reversible error, modified the judgment to correctly identify methamphetamine as a Penalty Group 1 controlled substance, and affirmed as modified.

DISPOSITION

affirmed

CASES CITED

- *Anders v. California*, 386 U.S. 738, 743–44 (1967)
- *In re Schulman*, 252 S.W.3d 403, 406 (Tex. Crim. App. 2008) (orig. proceeding)
- *Bledsoe v. State*, 178 S.W.3d 824, 826–27 (Tex. Crim. App. 2005)
- *French v. State*, 830 S.W.2d 607, 609 (Tex. Crim. App. 1992)

OPINION

Everett Henry Aker, Jr. v. the State of Texas

PER CURIAM.

In the Court of Appeals Sixth Appellate District of Texas at Texarkana No. 06-25-00097-CR EVERETT HENRY AKER, JR., Appellant V. THE STATE OF TEXAS, Appellee On Appeal from the 6th District Court Lamar County, Texas Trial Court No. 31159 Before Stevens, C.J., van Cleef and Rambin, JJ. Memorandum Opinion by Chief Justice Stevens

MEMORANDUM OPINION

Everett Henry Aker, Jr. was convicted by a Lamar County Jury for possession of four grams or more but less than 200 grams of methamphetamine. See TEX. HEALTH & SAFETY CODE ANN. § 481.115(d) (Supp.). Aker appeals. Aker’s attorney has filed a brief stating that he reviewed the record and found no genuinely arguable issues that could be raised on appeal. The brief sets out the procedural history of the case and summarizes the evidence elicited during the course of the trial court proceedings. Since counsel has provided a professional evaluation of the record demonstrating why there are no arguable grounds to be advanced, that evaluation meets the requirements of *Anders v. California*. *Anders v. California*, 386 U.S. 738, 743–44 (1967); *In re Schulman*, 252 S.W.3d 403, 406 (Tex. Crim. App. 2008) (orig. proceeding). Counsel also filed a motion with this Court seeking to withdraw as counsel in this appeal. On October 7, 2025, counsel mailed to Aker copies of the brief, the motion to withdraw, and a copy of the trial record. Aker was informed of his rights to review the record and file a pro se response. On that same date, this Court informed Aker that any pro se response was due on or before November 6, 2025. We have received no response or request for extension of time to file from Aker. We have reviewed the entire appellate record and have independently determined that no reversible error exists. See *Bledsoe v. State*, 178 S.W.3d 824, 826–27 (Tex. Crim. App. 2005). We note that the trial court’s judgment states that Aker was convicted of possession of four grams or more but less than 200 grams of a Penalty Group 1-B controlled substance, but 2 methamphetamine is a Penalty Group 1

controlled substance. See TEX. HEALTH & SAFETY CODE ANN. § 481.102(6) (Supp.). Appellate courts have the authority to modify judgments to speak the truth when we have the necessary information before us to do so. See *French v. State*, 830 S.W.2d 607, 609 (Tex. Crim. App. 1992). Accordingly, we modify the trial court's judgment to show that Aker was convicted of possession of a Penalty Group 1 controlled substance. As modified, we affirm the trial court's judgment.¹ Scott E. Stevens Chief Justice Date Submitted: December 10, 2025 Date Decided: December 23, 2025 Do Not Publish 1 Since we agree that this case presents no reversible error, we also, in accordance with *Anders*, grant counsel's request to withdraw from further representation of appellant in this case. See *Anders*, 386 U.S. at 744. No substitute counsel will be appointed. Should appellant desire to seek further review of this case by the Texas Court of Criminal Appeals, appellant must either retain an attorney to file a petition for discretionary review or file a pro se petition for discretionary review. Any petition for discretionary review (1) must be filed within thirty days from either the date of this opinion or the date on which the last timely motion for rehearing was overruled by this Court, see TEX. R. APP. P. 68.2, (2) must be filed with the clerk of the Texas Court of Criminal Appeals, see TEX. R. APP. P. 68.3, and (3) should comply with the requirements of Rule 68.4 of the Texas Rules of Appellate Procedure, see TEX. R. APP. P. 68.4. 3