

COURT OF APPEALS, SECOND APPELLATE DISTRICT OF TEXAS AT FORT WORTH

David Hobbs Ray v. The State of Texas

Ray v. State · No. Nos. 02-25-00266-CR, 02-25-00267-CR, 02-25-00268-CR, 02-25-00269-CR, 02-25-00270-CR, 02-25-00271-CR, 02-25-00272-CR, 02-25-00273-CR, 02-25-00274-CR, 02-25-00275-CR, 02-25-00276-CR · Decided March 12, 2026

SUMMARY

The Texas Court of Appeals, Second Appellate District, reviewed eleven Anders appeals arising from David Hobbs Ray’s guilty pleas to possessing child pornography. The court found the appeals frivolous, modified the Count Ten judgment to reflect the five-year sentence orally pronounced by the trial court, affirmed the remaining judgments, and granted counsel’s motion to withdraw.

CASE DETAILS

COURT	Court of Appeals, Second Appellate District of Texas at Fort Worth
WRITING FOR THE COURT	Brian Walker; Brian Birdwell; Wade Bassel
JURISDICTION	Court of Appeals, Second Appellate District of Texas at Fort Worth
DECIDED	March 12, 2026
DOCKET	Nos. 02-25-00266-CR, 02-25-00267-CR, 02-25-00268-CR, 02-25-00269-CR, 02-25-00270-CR, 02-25-00271-CR, 02-25-00272-CR, 02-25-00273-CR, 02-25-00274-CR, 02-25-00275-CR, 02-25-00276-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Ray appealed eleven judgments of conviction entered after his guilty pleas to eleven counts of possessing child pornography. His appointed appellate counsel filed an Anders motion to withdraw and brief asserting that the appeals were frivolous. The court independently reviewed the record, modified the Count Ten judgment to correct the sentence stated in the written judgment, and affirmed the remaining judgments and Count Ten as modified.
STANDARD OF REVIEW	In an Anders appeal, the appellate court independently reviews the record and counsel's brief to determine whether any arguable grounds for appeal exist. The court may modify a judgment when it has the necessary information to make the record speak the truth.
PRECEDENTIAL VALUE	nonprecedential

PARTIES

David Hobbs Ray v. The State of Texas

TOPICS

appellate procedure

criminal procedure

sentencing

standard of review

PRACTICE AREAS

criminal appellate procedure

criminal sentencing

child pornography offenses

QUESTIONS PRESENTED

1. Whether appointed counsel's Anders brief and motion to withdraw demonstrated that Ray's eleven appeals were wholly frivolous and without merit.
2. Whether the appellate court should modify the Count Ten judgment to conform to the trial court's oral pronouncement of a five-year sentence.

HOLDINGS

1. After independently reviewing the record and counsel's Anders brief, the court determined that, except for the clerical sentencing error in the Count Ten judgment, the appeals were wholly frivolous and without merit.
2. The Count Ten judgment was modified to state that the sentence was five years in the Texas Department of Criminal Justice, Correctional Institutions Division.

KEY QUOTATIONS

“FIVE (5) YEARS TDCJ, CORRECTIONAL INSTITUTIONS DIVISION.” (p. 4)

FACTUAL BACKGROUND

Ray pleaded guilty, without a plea bargain, to possessing eleven separate images of child pornography under Texas Penal Code section 43.26. At a unitary guilt-innocence and punishment hearing, the trial court admitted Ray's signed judicial confessions, found him guilty, and imposed sentences ranging from five to ten years. The written Count Ten judgment incorrectly stated a ten-year sentence even though the trial court orally pronounced five years.

PROCEDURAL HISTORY

Ray pleaded guilty without a plea bargain to eleven separate offenses and received sentences of ten years for Counts Three and Eight and five years for the remaining counts. The trial court ordered the sentences for Counts One and Three to run consecutively and the remaining sentences concurrently. Ray timely appealed all eleven judgments. Appointed counsel filed an Anders brief and motion to withdraw; Ray did not file a pro se response, and the State agreed that the appeals were frivolous while identifying an error in the Count Ten judgment.

DISPOSITION

affirmed

CASES CITED

- Anders v. California, 386 U.S. 738, 744–45, 87 S. Ct. 1396, 1400 (1967)
- Kelly v. State, 436 S.W.3d 313, 319 (Tex. Crim. App. 2014)
- Bledsoe v. State, 178 S.W.3d 824, 827–28 (Tex. Crim. App. 2005)
- Meza v. State, 206 S.W.3d 684, 685 n.6 (Tex. Crim. App. 2006)
- Ette v. State, 551 S.W.3d 783, 792 (Tex. App.—Fort Worth 2017), aff’d, 559 S.W.3d 511 (Tex. Crim. App. 2018)
- Ray v. State, No. 05-17-00820, 2018 WL 1149421, at *2 (Tex. App.—Dallas Mar. 5, 2018, no pet.) (mem. op., not designated for publication)

OPINION

David Hobbs Ray v. the State of Texas

PER CURIAM.

In the Court of Appeals Second Appellate District of Texas at Fort Worth
_____ No. 02-25-00266-CR No. 02-25-00267-CR No. 02-25-00268-
CR No. 02-25-00269-CR No. 02-25-00270-CR No. 02-25-00271-CR No. 02-25-00272-CR No.
02-25-00273-CR No. 02-25-00274-CR No. 02-25-00275-CR No. 02-25-00276-CR
_____ DAVID HOBBS RAY, Appellant V.

THE STATE OF TEXAS

On Appeal from the 78th District Court Wichita County, Texas Trial Court Nos. DC78-CR2023-1464-1, DC78-CR2023-1464-2,
DC78-CR2023-1464-3, DC78-CR2023-1464-4,
DC78-CR2023-1464-5, DC78-CR2023-1464-6,
DC78-CR2023-1464-7, DC78-CR2023-1464-8,
DC78-CR2023-1464-9, DC78-CR2023-1464-10,
DC78-CR2023-1464-11

Before Birdwell, Bassel, and Walker Memorandum Opinion by Justice Walker 2

MEMORANDUM OPINION

Appellant David Hobbs Ray pleaded guilty, without the benefit of a plea bargain, to possessing eleven separate images of child pornography. See Tex. Penal Code Ann. § 43.26. The trial court held a unitary hearing on guilt-innocence and punishment, at which Ray’s signed judicial confessions to each offense were admitted into evidence. The trial court found Ray guilty and, after hearing evidence, assessed his punishment at ten years’ confinement for Counts Three and Eight and five years’ confinement for each of the remaining counts. The trial court also ordered that the Counts One and Three judgments be served consecutively and that the remaining

judgments be served concurrently. Ray timely filed a notice of appeal from all eleven judgments. After concluding that Ray's appeals are frivolous, his court-appointed appellate attorney filed a motion to withdraw as counsel and, in support of that motion, a brief. See *Anders v. California*, 386 U.S. 738, 744–45, 87 S. Ct. 1396, 1400 (1967). Counsel's motion and brief meet the requirements of *Anders* by presenting a professional evaluation of the record demonstrating why there are no arguable grounds for relief. See *id.* at 744, 87 S. Ct. at 1400. Additionally, in compliance with *Kelly v. State*, Ray's counsel has provided Ray with copies of the brief, motion to withdraw, and record and informed Ray of his right to file a pro se response and to seek further review if we affirm the judgments. See 436 S.W.3d 313, 319 (Tex. Crim. App. 2014). This court 3 likewise mailed Ray a letter advising him that he had the opportunity to file a pro se response to the *Anders* brief, but he did not do so. The State declined to file a brief and instead filed a letter in which it agreed with Ray's appointed counsel that the appeals are frivolous. However, the State pointed out in its letter that the Count Ten judgment might need to be modified because it shows the sentence of confinement as ten years instead of the five years the trial court orally pronounced. We have carefully reviewed the record and counsel's brief and have determined that—other than the judgment error pointed out by the State—these appeals are wholly frivolous and without merit. We find nothing in the record that might arguably support the appeals. See *Bledsoe v. State*, 178 S.W.3d 824, 827–28 (Tex. Crim. App. 2005); see also *Meza v. State*, 206 S.W.3d 684, 685 n.6 (Tex. Crim. App. 2006). We may correct and modify the judgment of a trial court to make the record speak the truth when we have the necessary data and information to do so. See *Ette v. State*, 551 S.W.3d 783, 792 (Tex. App.—Fort Worth 2017), *aff'd*, 559 S.W.3d 511 (Tex. Crim. App. 2018); see also *Ray v. State*, No. 05-17-00820, 2018 WL 1149421, at *2 (Tex. App.—Dallas Mar. 5, 2018, no pet.) (mem. op., not designated for publication) (modifying judgment in *Anders* appeal). Because the trial court's oral pronouncement controls, we modify the Count Ten judgment to read that the sentence is “FIVE (5) YEARS TDCJ, CORRECTIONAL INSTITUTIONS DIVISION.” See Tex. R. App. P. 43.2(b). 4 We grant counsel's motion to withdraw¹ and affirm the trial court's Counts One through Nine and Eleven judgments as-is and the Count Ten judgment as modified. /s/ Brian Walker Brian Walker Justice Do Not Publish Tex. R. App. P. 47.2(b) Delivered: March 12, 2026 1 The trial court appointed the Wichita County Public Defender to represent Ray on appeal. Although Ethan Longoria filed the *Anders* brief and motion to withdraw on behalf of that office, we granted a motion to substitute David Bost as Ray's counsel after Longoria left the office's employment. 5