

COURT OF APPEALS FOR THE SEVENTH DISTRICT OF TEXAS AT
AMARILLO

Josue Pena v. The State of Texas

Nos. 07-25-00231-CR & 07-25-00232-CR · No. Nos. 07-25-00231-CR & 07-25-00232-CR · Decided January
28, 2026

SUMMARY

The Seventh District Court of Appeals of Texas affirmed, as modified, judgments adjudicating Josue Pena guilty of online solicitation of a minor and failure to register as a sex offender. The court granted appointed counsel’s motion to withdraw under Anders v. California and found no nonfrivolous grounds for reversal. It modified the judgments to remove duplicate costs, attorney’s fees, a premature time-payment fee, and findings regarding Pena’s ability to repay appointed-counsel costs.

CASE DETAILS

COURT	Court of Appeals for the Seventh District of Texas at Amarillo
WRITING FOR THE COURT	Judy C. Parker; Judy C. Parker, Chief Justice; Lawrence Doss, Justice; D. A. Yarbrough, Justice
JURISDICTION	Court of Appeals for the Seventh District of Texas at Amarillo
DECIDED	January 28, 2026
DOCKET	Nos. 07-25-00231-CR & 07-25-00232-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Pena appealed two judgments arising from the revocation of deferred adjudication community supervision in an online-solicitation case and from a separate conviction for failure to register as a sex offender. Appointed appellate counsel filed a motion to withdraw supported by an Anders brief. The court independently reviewed the record, modified the judgments to correct improper fees and cost assessments, and affirmed as modified.
STANDARD OF REVIEW	In an Anders appeal, the appellate court independently examines the record for preserved, nonfrivolous issues that could support reversal.
PRECEDENTIAL VALUE	nonprecedential memorandum opinion; marked Do not publish
PARTIES	Josue Pena v. The State of Texas

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QUESTIONS PRESENTED

1. Whether appointed appellate counsel should be permitted to withdraw under Anders because the record presents no nonfrivolous ground for reversal.
2. Whether the judgments improperly assessed attorney's fees against Pena despite his inability to pay.
3. Whether the \$15 time-payment fee was prematurely assessed.
4. Whether costs and fees were improperly duplicated because the two causes were heard together.
5. Whether the county and state consolidated court costs and sheriff's reimbursement fees should remain assessed.

HOLDINGS

1. After independently examining the record and counsel's Anders brief, the court found no preserved, nonfrivolous issue that would support reversal of Pena's convictions or sentences and granted counsel's motion to withdraw.
2. The judgments must be modified to delete the \$1,600 attorney's-fee assessment in the online-solicitation case and the findings that Pena had financial resources to offset the cost of appointed legal services.
3. The \$15 time-payment fee was prematurely assessed and must be deleted from the online-solicitation judgment.
4. The entire bill of costs in the failure-to-register case must be deleted because the two causes were heard together and duplicate costs were improperly assessed.
5. The county and state consolidated court costs and sheriff's reimbursement fees were appropriately assessed and were not required to be deleted.

KEY QUOTATIONS

"We modify the judgments to delete the entire bill of costs in the failure to register case (07-25-00232-CR), the \$15 time payment fee and \$1,600 in attorney's fees in the online solicitation case (07-25-00231-CR), and the findings in both judgments that Appellant has the financial resources to offset in part or in whole the cost of the legal services provided to him." (at 3)

"We affirm the trial court's judgments as modified and grant counsel's motion to withdraw." (at 3)

FACTUAL BACKGROUND

Pena pleaded guilty to online solicitation of a minor as part of a plea bargain, and the trial court deferred adjudication and placed him on community supervision. The State later alleged that he violated multiple

supervision conditions, including failing to register as a sex offender. After Pena pleaded true to the supervision violations and guilty to the separate failure-to-register charge, the trial court adjudicated him guilty in the solicitation case and imposed eighteen years' imprisonment, and imposed eighteen months' imprisonment in the registration case. The judgments also assessed attorney's fees, a time-payment fee, and costs.

PROCEDURAL HISTORY

Pena pleaded guilty under a plea bargain to online solicitation of a minor. The trial court deferred adjudication, placed him on five years of community supervision, and assessed a \$1,000 fine. After the State alleged multiple supervision violations, Pena pleaded true to the allegations and guilty to a separate failure-to-register charge. The trial court adjudicated him guilty of online solicitation and convicted him of failure to register, imposing eighteen-year and eighteen-month prison sentences, respectively. He timely appealed both judgments.

DISPOSITION

affirmed

CASES CITED

- Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967)
- In re Schulman, 252 S.W.3d 403, 406, 409, 411 n.33 (Tex. Crim. App. 2008)
- High v. State, 573 S.W.2d 807, 813 (Tex. Crim. App. [Panel Op.] 1978)
- Kelly v. State, 436 S.W.3d 313, 319-20 (Tex. Crim. App. 2014)
- Penson v. Ohio, 488 U.S. 75, 80, 109 S. Ct. 346, 102 L. Ed. 2d 300 (1988)
- Gainous v. State, 436 S.W.2d 137, 138 (Tex. Crim. App. 1969)
- Mayer v. State, 309 S.W.3d 552, 556-57 (Tex. Crim. App. 2010)
- Dulin v. State, 620 S.W.3d 129, 133 (Tex. Crim. App. 2021)
- Pruitt v. State, 646 S.W.3d 879, 883-84 (Tex. App.-Amarillo 2022, no pet.) (mem. op.)

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