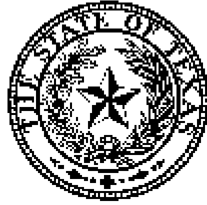
Affirmed and Opinion filed May 4, 2000.



In The

Fourteenth Court of Appeals

NO. 14-98-00862-CR

ANTHONY DOMONIC RODRIGUEZ, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 179th District Court
Harris County, Texas
Trial Court Cause No. 770,904

O P I N I O N

Appellant was charged with the felony offense of aggravated robbery. He pleaded guilty to the offense. The court found appellant guilty and assessed his punishment in accordance with a plea agreement at confinement for ten years. Appellant timely filed a notice of appeal.

Appellant's court appointed counsel filed a motion to withdraw from representation along with a supporting brief in which she concluded that the appeal is wholly frivolous and without merit. *See Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967). The brief meets the requirements of *Anders* by presenting a professional evaluation of the record demonstrating why there are no arguable grounds to be advanced. *See High v. State*, 573 S.W.2d 807, 811 (Tex. Crim. App. 1978).

A copy of counsel's brief was delivered to appellant. Appellant was advised of the right to examine the appellate record and to file a pro se response. Appellant has filed a pro se response claiming two points of error. In his brief, appellant contends that he received ineffective assistance from his trial counsel that rendered his plea involuntary.

Appellant has the burden to prove that his trial counsel was ineffective and this contention must be proven by a preponderance of the evidence. *See Cannon v. State*, 668 S.W.2d 401, 403 (Tex. Crim. App. 1984). He must show (1) that his counsel's representation fell below an objective standard of reasonableness and (2) that the probability, but for counsel's errors, that the trial would have resulted in a different outcome. *See Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). In the majority of instances, the record on direct appeal is simply undeveloped and cannot adequately reflect the failings of trial counsel. *See Jackson v. State*, 973 S.W.2d 954, 957 (Tex. Crim. App. 1998).

There exists a strong presumption that counsel's conduct fell within the wide range of reasonable professional assistance. *See Strickland v. Washington*, 466 U.S. at 688. To defeat this presumption, any allegation of ineffectiveness must be firmly founded in the record, and the record must affirmatively demonstrate the alleged ineffectiveness. *See McFarland v. State*, 928 S.W.2d 482, 500 (Tex. Crim. App. 1996).

Appellant claims that his counsel (1) never made any real attempts to research or investigate the case, (2) never filed any pretrial motions, (3) used pressure tactics to persuade appellant to plead guilty to the offense, and (4) misinformed appellant about the law concerning parole eligibility. The record in this case is silent as to all of these claims.

During the plea hearing, the record shows that the trial court properly admonished the appellant both orally and in writing. Appellant stated that no one had forced or threatened him to enter the plea and that he was pleading guilty solely because he was guilty. Appellant stated that no one had made him any promises of parole. The trial court admonished appellant of the full range of punishment for the offense and appellant indicated that he understood the range. Without something in the record to indicate otherwise,

appellant has failed to rebut the presumption that counsel's conduct fell within the wide range of reasonable professional assistance.

We have reviewed the record and appellant's pro se response to appellate counsel's brief. We agree with appellate counsel that the appeal is frivolous and without merit. Appellant's pro se response to appellate counsel's motion to withdraw and the brief in support of the motion does not raise any arguable points of error, and our review of the record reveals none.

Accordingly, we grant counsel's motion to withdraw and affirm the judgment of the trial court.

PER CURIAM

Judgment rendered and Opinion filed May 4, 2000.
Panel consists of Justices Sears, Cannon, and Draughn.*
Do Not Publish — TEX. R. APP. P. 47.3(b).

* Senior Justices Ross A. Sears, Bill Cannon, and Joe L. Draughn sitting by assignment.