

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-19-00349-CR
NO. 09-19-00350-CR
NO. 09-19-00351-CR
NO. 09-19-00352-CR
NO. 09-19-00354-CR

JOSE ANGEL TUCKER, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 265th District Court
Dallas County, Texas
Trial Cause Nos. F16-14065-R, F16-14066-R, F16-14067-R,
F16-14068-R & F19-54257-R

MEMORANDUM OPINION

Jose Angel Tucker appeals his convictions for aggravated robbery and deadly conduct by discharge of a firearm.¹ We affirm the trial court's judgments.

¹Pursuant to a docket-equalization order issued by the Supreme Court of Texas, these cases were transferred to this Court from the Fifth Court of Appeals in Dallas, Texas. *See* Tex. Gov't Code Ann. § 73.001.

In 2016, Tucker was charged by indictment for the offense of aggravated robbery against four persons in cases: F16-14065-R, F16-14066-R, F16-14067-R, and F16-14068-R (collectively “the 2016 cases”).) *See* Tex. Penal Code Ann. § 29.03. Each indictment alleged that Tucker used a firearm as a deadly weapon in the commission of the offenses. Tucker pleaded guilty to all four offenses pursuant to plea agreements and waived his right to a jury trial. In each case, the trial court found Tucker guilty, deferred adjudication, and placed Tucker on community supervision for seven years.

In May 2019, the State filed a motion to revoke Tucker’s community supervision in all of the 2016 cases, alleging five violations of the terms of his community supervision in each motion to revoke. On June 21, 2019, Tucker was indicted for the offense of deadly conduct by discharge of a firearm in trial cause number F19-54257-R. *See* Tex. Penal Code Ann. § 22.05(b). In July 2019, the State amended its motions to revoke in the four 2016 cases to add additional allegations, including the deadly conduct offense alleged in the new indictment.

At a hearing on August 19, 2019, Tucker pleaded guilty to the deadly conduct charge and pleaded “true” to the allegations in all motions to revoke. The reporter’s record includes the court’s admonishments on Tucker’s pleas. The court heard testimony and received evidence on the charge of deadly conduct. During his

testimony, Tucker stated “I’m sorry for what I did. I know it was wrong[.]” and “I know I was wrong for everything.” At the conclusion of the hearing, the court accepted Tucker’s pleas and found that they were freely and voluntarily made. The court found Tucker guilty of the offense of deadly conduct and sentenced Tucker to ten years’ imprisonment in trial cause number F19-54257-R. The court also found that Tucker violated the terms of his probation on the 2016 cases, found him guilty, found that Tucker used a deadly weapon as alleged in the indictments, and imposed punishment at twenty-five years in each of the 2016 cases, with the sentences to run concurrently. Tucker appealed.

On appeal, the court-appointed attorney for Tucker filed briefs in all five cases wherein the attorney stated that he had reviewed the cases and, based on his professional evaluation of the record and applicable law, he concluded that the appeals are without merit and that there are no arguable grounds for reversal. *See Anders v. California*, 386 U.S. 738 (1967); *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. 1978). We granted an extension of time for Tucker to file a pro se brief, and Tucker filed a pro se response in all appellate cases in which he argued that his guilty pleas were not voluntary and he did not receive the effective assistance of counsel. The Court of Criminal Appeals has held that we need not address the merits of issues raised in an *Anders* brief or a pro se response. *Bledsoe v. State*, 178 S.W.3d

824, 826-27 (Tex. Crim. App. 2005). Rather, an appellate court may determine: (1) “that the appeal is wholly frivolous and issue an opinion explaining that it has reviewed the record and finds no reversible error[;]” or (2) “that arguable grounds for appeal exist and remand the cause to the trial court so that new counsel may be appointed to brief the issues.” *Id.*

Upon receiving an *Anders* brief, this Court must conduct a full examination of all the proceedings to determine whether the appeal is wholly frivolous. *Penson v. Ohio*, 488 U.S. 75, 80 (1988) (citing *Anders*, 386 U.S. at 744). We have reviewed the entire record in all five appellate cases, counsel’s brief, and Tucker’s pro se response, and we have found nothing that would arguably support an appeal in any of the cases. *See Bledsoe*, 178 S.W.3d at 827-28 (“Due to the nature of *Anders* briefs, by indicating in the opinion that it considered the issues raised in the briefs and reviewed the record for reversible error but found none, the court of appeals met the requirements of Texas Rule of Appellate Procedure 47.1.”). Therefore, we find it unnecessary to order appointment of new counsel to re-brief the appeals. *Compare Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991). We affirm the trial court’s judgments.²

² Tucker may challenge our decision in these cases by filing a petition for discretionary review. *See* Tex. R. App. P. 68.

AFFIRMED.

LEANNE JOHNSON
Justice

Submitted on April 30, 2020
Opinion Delivered May 13, 2020
Do Not Publish

Before Kreger, Horton, and Johnson, JJ.