



**Fourth Court of Appeals**  
**San Antonio, Texas**

**MEMORANDUM OPINION**

No. 04-19-00549-CR

David Michael **ESPIRITU**,  
Appellant

v.

The **STATE** of Texas,  
Appellee

From the 437th Judicial District Court, Bexar County, Texas  
Trial Court No. 2012CR9243  
Honorable Lori I. Valenzuela, Judge Presiding

Opinion by: Luz Elena D. Chapa, Justice

Sitting: Luz Elena D. Chapa, Justice  
Beth Watkins, Justice  
Liza A. Rodriguez, Justice

Delivered and Filed: June 3, 2020

**MOTION TO WITHDRAW GRANTED; AFFIRMED**

David Michael Espiritu pled guilty to burglary of a habitation as part of a plea agreement with the State. Pursuant to the agreement, the trial court found Espiritu guilty, fined him \$ 1,500, and sentenced him to eight years in prison. The court suspended the sentence of confinement and placed Espiritu on community supervision for a period of eight years. The State later filed a motion to revoke Espiritu's community supervision, alleging he had committed eight violations of the conditions of his supervision. At a hearing on the State's motion, Espiritu pled true to the allegations that he consumed alcoholic beverages and failed to report to his supervision officer on

seven separate occasions. The State waived the remaining allegations. After hearing testimony from appellant, the trial court found the allegations true, revoked Espiritu's community supervision, and imposed a sentence of six years in prison. Espiritu timely appealed.

Espiritu's court-appointed appellate attorney has filed a motion to withdraw and a brief in which she concludes this appeal is frivolous and without merit. The brief demonstrates a professional and thorough evaluation of the record and meets the requirements of *Anders v. California*, 386 U.S. 738 (1967), *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. [Panel Op.] 1978), and *Gainous v. State*, 436 S.W.2d 137 (Tex. Crim. App. 1969). Counsel sent copies of the brief and motion to withdraw to Espiritu, informed him of his rights in compliance with the requirements of *Kelly v. State*, 436 S.W.3d 313 (Tex. Crim. App. 2014), and provided a form to request access to the appellate record. This court notified Espiritu of the deadline to file a pro se brief. Espiritu did not request access to the appellate record and did not file a pro se brief.

We have thoroughly reviewed the record and counsel's brief, and we find no arguable grounds for appeal exist and the appeal is wholly frivolous. *See Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex. Crim. App. 2005). We therefore grant the motion to withdraw filed by Espiritu's counsel and affirm the trial court's judgment. *See id.*; *Nichols v State*, 954 S.W.2d 83, 86 (Tex. App.—San Antonio 1997, no pet.); *Bruns v. State*, 924 S.W.2d 176, 177 n. 1 (Tex. App.—San Antonio 1996, no pet.).<sup>1</sup>

Luz Elena D. Chapa, Justice

DO NOT PUBLISH

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<sup>1</sup>No substitute counsel will be appointed. Should Espiritu wish to seek further review of this case by the Texas Court of Criminal Appeals, he 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 must be filed within thirty days after either this opinion is rendered or the last timely motion for rehearing or motion for en banc reconsideration is overruled by this court. *See* TEX. R. APP. P. 68.2. Any petition for discretionary review must be filed with the clerk of the Court of Criminal Appeals. *See id.* R. 68.3. Any petition for discretionary review must comply with the requirements of rule 68.4 of the Texas Rules of Appellate Procedure. *See id.* R. 68.4.