

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-19-00114-CR

ROLANDO CALDERILLA, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 356th Judicial District Court
Hardin County, Texas
Trial Cause No. 23812**

MEMORANDUM OPINION

In this appeal, Rolando Calderilla's court-appointed appellate counsel submitted a brief in which counsel contends he cannot advance a nonfrivolous argument to support Calderilla's appeal from Calderilla's conviction for aggravated

assault.¹ After reviewing the record, we agree no arguable issues support Calderilla's appeal.²

Calderilla appeals from a judgment the trial court rendered following his open plea. The court found Calderilla guilty of aggravated assault and assessed a twenty-year sentence. The trial court also found Calderilla used a deadly weapon when he committed the crime.

On appeal, Calderilla's court-appointed, appellate counsel filed a brief presenting counsel's professional evaluation of the record. In the brief, counsel concludes Calderilla's appeal is frivolous.³ In response, Calderilla filed a *pro se* brief, alleging he received ineffective assistance of trial counsel and claiming he did not voluntarily, intelligently, or knowingly plead guilty when asked if he was guilty of committing the aggravated assault. According to Calderilla, he has only a limited ability to understand English, was unable to effectively communicate with his attorney, and did not understand the court proceedings before deciding to plead guilty. He also argues the trial court abused its discretion by assessing a twenty-year sentence, the maximum punishment available to punish a person found guilty of

¹ See Tex. Penal Code Ann. § 22.02.

² See *Anders v. California*, 386 U.S. 738, 744 (1967).

³ See *Anders*, 386 U.S. at 744; *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. 1978).

committing a second-degree felony. Lastly, Calderilla asserts the attorney appointed to represent him in his appeal was constitutionally ineffective in discharging his duties to Calderilla as counsel in his appeal. In response, the State argues the trial court's judgment should be affirmed.

After reviewing the appellate record, the *Anders* brief filed by Calderilla's counsel, Calderilla's *pro se* response, the State's response to Calderilla's brief, and Calderilla's *pro se* reply, we agree with counsel's conclusion that Calderilla's appeal is frivolous. Therefore, we need not require the trial court to appoint new counsel to re-brief the appeal.⁴ Because no arguable issues support the appeal, the trial court's judgment is affirmed.

AFFIRMED.

HOLLIS HORTON
Justice

Submitted on February 14, 2020
Opinion Delivered June 24, 2020
Do Not Publish

Before McKeithen, C.J., Kreger and Horton, JJ.

⁴ *Cf. Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991).