

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-18-00480-CV

IN RE COMMITMENT OF RONNIE JAMES CURTIS

On Appeal from the Criminal District Court
Jefferson County, Texas
Trial Cause No. 1001-Y

MEMORANDUM OPINION

In this appeal, Ronnie James Curtis’s appellate counsel submitted a brief in which counsel contends he can raise no arguable grounds to support Curtis’s appeal from a judgment rendered following a trial where the jury found Curtis to be a sexually violent predator.¹ After reviewing the record, we agree with counsel’s conclusion no arguable issues support Curtis’s appeal.²

¹ See Tex. Health & Safety Code Ann. § 841.003.

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

The State launched the proceedings that led to the appeal by petitioning a district court alleging Curtis should be committed for treatment as a sexually violent predator under Title 11, Chapter 841 of the Texas Health and Safety Code. The parties tried the case to a jury. The jury found that Curtis suffers from a behavior abnormality that predisposes him to engage in a future act of sexual violence.³ In accord with the jury's verdict, the trial court signed a judgment. The judgment order Curtis committed to a facility where he can be treated for his condition as a sexually violent predator.

On appeal, the appellate attorney the trial court appointed to represent Curtis filed a brief. The brief contains the attorney's professional evaluation of the record, and the attorney concluded that Curtis's appeal is frivolous.⁴ In response to the brief, Curtis filed a *pro se* brief in which he raises two claims. First, Curtis argues the trial court (a criminal district court) had no jurisdiction to hear a civil commitment proceeding under Chapter 841. Second, Curtis argues that because the State began the proceedings against him more than two years after he was last convicted of

³ See Tex. Health & Safety Code Ann. § 841.003.

⁴ See *Anders*, 386 U.S. at 744; *In re Commitment of Rayson*, No. 09-06-081-CV, 2007 WL 846555 (Tex. App.—Beaumont Mar. 22, 2007, no pet.).

committing a sexually violent crime, the proceedings are barred by the two-year statute of limitations.⁵

After reviewing the record and briefs, we find Curtis's arguments are frivolous. While Curtis complains the trial lacked subject-matter jurisdiction over the dispute, that arguments lacks merit because the Legislature expressly authorized the State to file civil commitment proceedings, filed under Chapter 841, in the court where the "conviction for the person's most recent sexually violent offense" occurred.⁶ In Curtis's case, the record shows the Criminal District Court of Jefferson County, Texas is the court in which Curtis's most recent conviction of a sexually violent offense occurred. We conclude the Legislature authorized the Criminal District Court to exercise jurisdiction over the civil commitment action at issue in Curtis's appeal.

Second, Curtis claims the statute of limitations barred the State's action. But statute of limitations claims are affirmative defenses, which a defendant must both plead and prove.⁷ While Curtis pleaded the claim, he never obtained a ruling on the

⁵ Tex. Civ. Prac. & Rem. Code Ann. § 16.003 (two-year statute of limitations).

⁶ Tex. Health & Safety Code Ann. § 841.041(a).

⁷ Tex. R. Civ. P. 94; *Woods v. William M. Mercer, Inc.*, 769 S.W.2d 515, 517 (Tex. 1988).

defense. For that reason, Curtis failed to properly preserve his complaint alleging the State's claims were barred by limitation for our review on appeal.⁸

We conclude Curtis's appeal is frivolous. Based on that conclusion, we conclude we need no more briefing from attorneys to resolve the appeal.⁹ Accordingly, we affirm the trial court's judgment and order of civil commitment.

AFFIRMED.

HOLLIS HORTON
Justice

Submitted on November 19, 2019
Opinion Delivered June 25, 2020

Before Kreger, Horton and Johnson, JJ.

⁸ Tex. R. App. P. 33.1; *Nugent & CAO, Inc. v. Estate of Ellickson*, 543 S.W.3d 243, 254-55 (Tex. App.—Houston [14th Dist.] 2018, no pet.); *Vance v. Popkowski*, 534 S.W.3d 474, 481 (Tex. App.—Houston [1st Dist.] 2017, pet. denied).

⁹ *Cf. Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991) (requiring court appointment of other counsel only if the appellate court determines arguable grounds support the defendant's appeal).