

### *Anders v. California* Requirements

A court-appointed attorney who concludes an appeal in a criminal case is frivolous must file a motion to withdraw and a supporting brief in compliance with *Anders v. California*, 386 U.S. 738, 744, 87 S.Ct., 1396, 1400, 18 L.Ed.2d 493 (1967) and *Kelly v. State*, --- S.W.3d ---, 2014 WL 2865901 (Tex.Crim.App. June 25, 2014). The procedures established by *Anders* also apply to juvenile appeals and appeals from a judgment terminating the appellant's parental rights where court-appointed counsel has determined that the appeal is frivolous. *In re D.A.S.*, 973 S.W.2d 296, 297 (Tex. 1998) (orig.proceeding); *In re J.B.*, 296 S.W.3d 618, 619 (Tex.App.--El Paso 2009, no pet.).

Counsel must: (1) notify the appellant that counsel has filed an *Anders* brief and a motion to withdraw; (2) provide the appellant with a copy of the motion to withdraw and the *Anders* brief; (3) inform the appellant of his rights to file a *pro se* response, to review the record in preparation for filing that response, and to seek discretionary review if the court of appeals concludes that the appeal is frivolous; and (4) notify the appellant that if he wishes to exercise his right to review the record, he must immediately file a motion for *pro se* access to the appellate record with the court of appeals. *See Anders*, 386 U.S. at 744, 87 S.Ct. at 1400; *Kelly*, 2014 WL 2865901 at \*3. Further, counsel must include with his letter a form motion for *pro se* access to the appellate record and instruct the appellant to file the motion with the court of appeals within ten days. *Kelly*, 2014 WL 2865901 at \*3. The letter should include the mailing address for the court of appeals. Finally, appointed counsel is required to inform the court of appeals in writing that he has satisfied each of these requirements. *Kelly*, 2014 WL 2865901 at \*3. The Eighth Court of Appeals requires appointed counsel to complete and file a certificate of counsel demonstrating counsel has satisfied the above requirements. The certificate of counsel form can be downloaded from [here] or by navigating to the Forms link on the Practice Before the Court tab.