COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

RUSSELL SMITH,	§	No. 08-10-00116-CR
Appellant,	§	Appeal from
v.	§	16th District Court
THE STATE OF TEXAS,	§	of Denton County, Texas
Appellee.	§	(TC # F-2009-0138-A)

MEMORANDUM OPINION

Appellant entered a plea of not guilty before a jury to the offense of assault. TEX.PENAL CODE ANN. § 22.01 (West 2009). He was convicted, and the jury assessed punishment, enhanced in accordance with Appellant's plea of true to the enhancement paragraph, at fifteen years' confinement in the Institutional Division of the Texas Department of Criminal Justice. We affirm.

Appellant's court-appointed counsel has filed a brief in which he has concluded that the appeal is wholly frivolous and without merit. The brief meets the requirements of *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493, *reh. denied*, 388 U.S. 924, 87 S.Ct. 2094, 18 L.Ed.2d 1377 (1967), by advancing the contention of ineffective assistance of trial counsel that counsel on appeal says might arguably support the appeal. *See High v. State*, 573 S.W.2d 807 (Tex.Crim.App. 1978); *Currie v. State*, 516 S.W.2d 684 (Tex.Crim.App. 1974); *Jackson v. State*, 485 S.W.2d 553 (Tex.Crim.App. 1972); *Gainous v. State*, 436 S.W.2d 137 (Tex.Crim.App. 1969). A copy of counsel's brief and the appellate record have been delivered to Appellant, and Appellant has been advised of his right to examine the record and file a pro se brief. No *pro se* brief has been filed.

The record demonstrates that following Appellant's sentencing on February 19, 2010, trial counsel filed a timely notice of appeal on behalf of Appellant in March 2010. Counsel for appeal was appointed on April 8, 2010. No motion for a new trial is contained in the record. On appeal counsel alludes to a possible issue with regard to ineffective assistance of counsel but ultimately concludes such a claim would be frivolous.

We have carefully reviewed the record and counsel's brief, and agree that the appeal is wholly frivolous and without merit. *See Bledsoe v. State*, 178 S.W.3d 824, 826-27 (Tex.Crim.App. 2005). Further, we find nothing in the record that might arguably support the appeal. Accordingly, the judgment is affirmed.

February 23, 2011

ANN CRAWFORD McCLURE, Justice

Before Chew, C.J., McClure, and Rivera, JJ.

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