MODIFY and AFFIRM; and Opinion Filed June 28, 2016.

In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-15-01566-CR

GENIPHER NICOLE MACHOVSKY, Appellant
V.
THE STATE OF TEXAS, Appellee

On Appeal from the 265th Judicial District Court
Dallas County, Texas
Trial Court Cause No. F15-57254-R

MEMORANDUM OPINION

Before Justices Francis, Fillmore, and Schenck
Opinion by Justice Schenck

Genipher Nicole Machovsky waived a jury and pleaded guilty to fraudulent use or possession of fifty or more items of identifying information. *See* TEX. PENAL CODE ANN. § 32.51(b), (c)(4). The trial court sentenced appellant to imprisonment for fifteen years. On appeal, appellant's attorney filed a brief in which he concludes the appeal is wholly frivolous and without merit. The brief meets the requirements of *Anders v. California*, 386 U.S. 738 (1967). The brief presents a professional evaluation of the record showing why, in effect, there are no arguable grounds to advance. *See High v. State*, 573 S.W.2d 807, 811–12 (Tex. Crim. App. [Panel Op.] 1978). Counsel delivered a copy of the brief to appellant. We advised appellant of her right to file a pro se response, but she did not file a pro se response. *See Kelly v. State*, 436

S.W.3d 313, 319–21 (Tex. Crim. App. 2014) (identifying duties of appellate courts and counsel in *Anders* cases).

We have reviewed the record and counsel's brief. *See Bledsoe v. State*, 178 S.W.3d 824, 826–27 (Tex. Crim. App. 2005) (explaining appellate court's duty in *Anders* cases). We agree the appeal is frivolous and without merit. We find nothing in the record that might arguably support the appeal.

Although not an arguable issue, we note the trial court's judgment incorrectly reflects there was a plea bargain agreement. The record shows appellant entered an open plea of guilty to the charges in the indictment. Accordingly, on our own motion, we modify the section of the judgment entitled "terms of plea bargain" to state "open." *See* TEX. R. APP. P. 43.2(b); *Bigley v. State*, 865 S.W.2d 26, 27–28 (Tex. Crim. App. 1993); *Asberry v. State*, 813 S.W.2d 526, 529–30 (Tex. App.—Dallas 1991, pet. ref'd).

As modified, we affirm the trial court's judgment.

/David J. Schenck/
DAVID J. SCHENCK
JUSTICE

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TEX. R. APP. P. 47

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Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

GENIPHER NICOLE MACHOVSKY, Appellant

No. 05-15-01566-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 265th Judicial District Court, Dallas County, Texas
Trial Court Cause No. F15-57254-R.
Opinion delivered by Justice Schenck.
Justices Francis and Fillmore participating.

Based on the Court's opinion of this date, the judgment of the trial court is **MODIFIED** as follows:

The section entitled "Terms of Plea Bargain" is modified to show "Open."

As modified, we **AFFIRM** the trial court's judgment.

Judgment entered this 28th day of June, 2016.