

Affirmed and Opinion filed August 3, 2000.



In The

## Fourteenth Court of Appeals

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NO. 14-99-00440-CR

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**RAMONA SHAWNTA SWANKS, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the County Court at Law No. 2  
Brazoria County, Texas  
Trial Court Cause No. 98,806S**

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### OPINION

Appellant was convicted, in a jury trial, of the misdemeanor offense of assault. Following a pre-sentence investigation, appellant was sentenced to one-year in the county jail, probated for a period of two years. Appellant was ordered to serve a ten day term of incarceration in the county jail on consecutive weekends until the term was completed. Appellant was also fined \$500.00, and required to do 200 hours of community service.

Appellant's appointed counsel filed a brief in which he concludes 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 (1967), by presenting a professional evaluation of the record demonstrating why

there are no arguable grounds to be advanced. *See High v. State*, 573 S. W. 2d 807 (Tex. Crim. App. 1978).

A copy of counsel's brief was delivered to appellant. Appellant was advised of the right to examine the appellate record and to file a pro se response. Appellant filed a pro se response, and argues that she is entitled to a new trial to present additional witnesses who will testify in her behalf.

A motion for new trial is a prerequisite to presenting a point of error on appeal when necessary to adduce facts not in the record. *See* TEX. R. APP. P. 21.2. When no motion for new trial is filed, the error, if any, has not been preserved for review. *See Thomley v. State*, 987 S.W.2d 906 (Tex. App.—Houston [1st Dist.] 1999, pet. ref'd); *Faerman v. State*, 966 S.W.2d 843 (Tex. App.—Houston [14<sup>th</sup> Dist.] 1998, no pet.). No motion for new trial appears in the record in this case, so that appellant could present new witnesses in her behalf. Accordingly, appellant has failed to preserve any error for review.

We agree the appeal is wholly frivolous and without merit. Further, we find no reversible error in the record. A discussion of the brief would add nothing to the jurisprudence of the State.

Accordingly, the judgment of the trial court is affirmed.

PER CURIAM

Judgment rendered and Opinion filed August 3, 2000.

Panel consists of Justices Yates, Fowler and Edelman.

Do Not Publish — TEX. R. APP. P. 47.3(b).