

ARKANSAS COURT OF APPEALS  
NOT DESIGNATED FOR PUBLICATION  
WENDELL L. GRIFFEN, JUDGE

DIVISION I

CACR05-868

June 28, 2006

KAREN DENISE BEASLEY,  
a/k/a KERENDENES BEASLEY  
APPELLANT

AN APPEAL FROM UNION  
COUNTY CIRCUIT COURT  
[CR04-187]

V.

HON. CAROL CRAFTON ANTHONY,  
JUDGE

STATE OF ARKANSAS  
APPELLEE

REMANDED TO SUPPLEMENT  
THE RECORD; REBRIEFING ORDERED

After a jury trial, appellant was convicted of the second-degree murder of Marilyn Miller and the second-degree battery of Miller's daughter, Shanara Lawrence. Miller's death was the result of an altercation between appellant, Miller, and Lawrence. In the fracas that ensued, appellant produced a knife and fought with Miller and Lawrence; Miller later died from her injuries. The jury found appellant guilty and sentenced her to serve a total sentence of eighteen years, reflecting a twelve-year sentence for the murder and a consecutive six-year sentence for the battery. This no-merit appeal followed.

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), and Arkansas Supreme Court Rule 4-3(j), appellant's counsel has filed a motion to withdraw on the ground that the appeal is wholly without merit. Counsel's motion was accompanied by a brief purporting to list each adverse ruling made by the trial court and to explain why each adverse ruling does not present a meritorious ground for reversal. However, counsel's brief fails to address one adverse ruling, fails to properly abstract the testimony and proceedings, and fails to

adequately analyze the adverse rulings. Thus, we order rebriefing.

When filing an *Anders* brief, counsel is required to list each ruling adverse to the defendant and to explain why each adverse ruling does not present a meritorious ground for reversal. *Anders, supra*; Ark. Sup. Ct. R. 4-3(j)(1); *Eads v. State*, 74 Ark. App. 363, 47 S.W.3d 918 (2001). The test is not whether counsel thinks the trial court committed no reversible error, but rather whether the points to be raised on appeal would be wholly frivolous. *Anders, supra*; *Eads, supra*. We are required to make a determination of whether the case is wholly frivolous after a full examination of all the proceedings. *Anders, supra*; *Eads, supra*. Where counsel fails to abstract each adverse ruling or otherwise does not comply with the *Anders* requirements for submitting no-merit briefs, we will order rebriefing. *See Eads, supra*.

First, counsel failed to abstract and address one adverse ruling. During the cross-examination of a prosecution witness, appellant's counsel attempted to establish whether appellant and the witness had spent the night together earlier in the same week in which Miller was killed. The State objected on the ground of relevancy, stating that "we've just beaten this horse to death" because prior testimony had been elicited in the attempt to establish that appellant and the witness had an "on again, off again" relationship. The trial court sustained the State's objection and informed appellant's counsel that he had asked "enough questions with respect to this." Counsel failed to address this ruling. Pursuant to *Eads, supra*, this is reason alone to remand for rebriefing.

However, counsel's brief is deficient in other respects that must also be cured on remand. For example, the record does not include the *voir dire* or sentencing proceedings. Moreover, despite the fact that appellant asserts in one of her *pro se* points that the "sentencing in my case was unfair justice," counsel failed to abstract the sentencing

proceedings. We are not able to determine whether there has been compliance with *Anders* unless we are provided with a complete record on appeal. *See Campbell v. State*, 74 Ark. App. 277, 47 S.W.3d 915 (2001). On remand, counsel should supplement the record to include the *voir dire* proceedings as well as any other portion of the proceedings related to appellant's *pro se* points. Similarly, the abstract should include the sentencing proceedings and any other portion of the proceedings related to appellant's *pro se* points.

Finally, counsel's arguments generally fail to demonstrate why each adverse ruling would not support a meritorious appeal. Counsel abstracted *only* the adverse rulings. His failure to explain the context in which the objections arose, or to explain how the facts of the case support each of the trial court's adverse rulings, hinders this court in understanding the complete procedural history of this case. It also hinders us in assessing the sufficiency of the evidence supporting appellant's convictions. We note that nowhere in counsel's brief is a concise statement of the incident that led to the charges in this case or even a summary of the evidence presented – not in his statement of the case or even the portion of his argument purporting to analyze the denial of appellant's motions for a directed verdict.

Accordingly, we cannot at this juncture grant counsel's motion to be relieved because we cannot ascertain that he is correct in asserting that any appeal from the adverse rulings in this case would be wholly frivolous. *See McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429 (1988) (holding that the appellate court must satisfy itself that the attorney has provided the client with a diligent and thorough search of the record for any arguable claim that might support the client's appeal and has correctly concluded that the appeal is frivolous).

Remanded to supplement the record; rebriefing ordered.

PITTMAN, C.J., and HART, J., agree.

