IN THE UTAH COURT OF APPEALS

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State of Utah,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Plaintiff and Appellee,	)	
	)	Case No. 20090412-CA
v.	)	
	)	F I L E D
	)	(April 1, 2010)
Thomas Reed Kalaher,	)	
	)	2010 UT App 75
Defendant and Appellant.	)	

Second District, Ogden Department, 081901494
The Honorable Michael D. Lyon

Attorneys: Randall W. Richards, Ogden, for Appellant
            Mark L. Shurtleff and Laura B. Dupaix, Salt Lake
            City, for Appellee

Before Judges Davis, Thorne, and Roth.

PER CURIAM:

    Thomas Reed Kalaher appeals from his conviction and sentence
for theft. Kalaher's counsel filed a brief in accordance with
Anders v. California, 386 U.S. 783 (1967), and State v. Clayton,
639 P.2d 168 (Utah 1981). The brief "objectively demonstrate[s]
that the issues raised are frivolous."[1] State v. Flores, 855
P.2d 258, 260 (Utah Ct. App. 1993) (per curiam); see also Dunn v.
Cook, 791 P.2d 873, 877 (Utah 1990) (stating that an Anders brief
must demonstrate any "potentially meritorious" issues are
actually frivolous). Based upon our independent examination of
the record, we determine that the appeal is, indeed, wholly

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    [1]Counsel indicates that he was unable to locate Kalaher in
order to provide him a copy of the proposed brief before filing.
However, counsel demonstrated that he made a diligent effort to
locate Kalaher in order to comply with his obligations under
Anders. See e.g., State v. Mayfield, 446 S.E.2d 150, 152 (N.C.
Ct. App. 1994) ("[d]elivery of the necessary documents to the
defendant is not required if the defendant's attorney has, after
a diligent effort, been unable to locate the defendant and
deliver the documents.").

frivolous, and accordingly, we affirm the decision of the district court and grant counsel's motion to withdraw.

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James Z. Davis,
Presiding Judge

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William A. Thorne Jr., Judge

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Stephen L. Roth, Judge