

ARKANSAS COURT OF APPEALS

DIVISION II
No. CR-13-773

JEREMIAH STEWART

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered June 4, 2014

APPEAL FROM THE CRITTENDEN
COUNTY CIRCUIT COURT
[NO. CR-2011-21]

HONORABLE JOHN N.
FOGLEMAN, JUDGE

AFFIRMED; MOTION TO
WITHDRAW GRANTED

ROBIN F. WYNNE, Judge

Jeremiah Stewart appeals from the revocation of his probation by the Crittenden County Circuit Court. Pursuant to *Anders v. California*, 386 Ark. 738 (1967), and Arkansas Supreme Court and Court of Appeals Rule 4-3(k),¹ his counsel has filed a motion to withdraw accompanied by a no-merit brief that purports to list all rulings adverse to appellant at the revocation hearing and explain why there are no non-frivolous issues for appeal. We affirm the trial court's sentencing order and grant counsel's motion to withdraw.

In April 2012, appellant entered a negotiated plea of guilty to a charge of forgery in the second degree. He was sentenced to twenty-four months' probation. He was also ordered to pay fines, court costs, and restitution. On January 22, 2013, the State filed a

¹In his brief, appellant's counsel cites Rule 4-3(j). We remind counsel that the proper subsection is now Rule 4-3(k).

petition to revoke appellant's probation in which it alleged that he violated the terms and conditions of his probation by (1) failing to pay fines, restitution, costs, and fees as ordered; (2) failing to report to probation as directed; (3) failing to pay probation fees; (4) failing to notify the sheriff and his probation officer of his current address and employment; and (5) departing from his approved residence without permission.

At the hearing on the State's petition, Amy Peyton with the Crittenden County Sheriff's Office testified that appellant had made no payments toward his fines and costs. Jimmy Selvidge, appellant's probation officer, testified that appellant failed to report in August, September, October, November, and December of 2012. According to Mr. Selvidge, appellant had been reporting since his release on an absconder warrant in March 2013. Mr. Selvidge testified that appellant was employed at an automobile-detailing business. Appellant testified that he stopped reporting to his probation officer when he did not have money to pay his fines, fees, costs, and restitution because he thought he was going to go to jail either way. Appellant stated that he had been making payments and reporting since March 2013. Appellant testified that there was no reason why he could not have been reporting and making payments the entire time.

At the conclusion of the hearing, the trial court found by a preponderance of the evidence that appellant failed to report to his probation officer as directed. Appellant was sentenced to three years' imprisonment in the Arkansas Department of Correction. This appeal followed.

A request to withdraw on the ground that the appeal is wholly without merit shall be

accompanied by a brief including an abstract and addendum. Ark. Sup. Ct. R. 4-3(k)(1) (2013). The brief shall contain an argument section that consists of a list of all rulings adverse to the defendant made by the circuit court on all objections, motions and requests made by either party with an explanation as to why each adverse ruling is not a meritorious ground for reversal. *Id.* The abstract and addendum of the brief shall contain, in addition to the other material parts of the record, all rulings adverse to the defendant made by the circuit court. *Id.* Appellant was provided with a copy of counsel's motion and brief and was informed of his right to submit pro se points for reversal in accordance with Rule 4-3(k)(2). Appellant did not file pro se points for reversal. After thoroughly reviewing the record in this matter as well as the brief filed by counsel, we agree with counsel that any appeal from the sentencing order would be without merit.

Affirmed; motion to withdraw granted.

WALMSLEY and HARRISON, JJ., agree.

Shaun Hair, Deputy Public Defender, for appellant.

No response.