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ARKANSAS COURT OF APPEALS

DIVISION II
No. CR-16-1089

WILLIAM CHAD JONES

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered: January 24, 2018

APPEAL FROM THE CRITTENDEN
COUNTY CIRCUIT COURT
[NO. 18CR-14-632]

HONORABLE RALPH WILSON, JR.,
JUDGE

AFFIRMED; MOTION TO WITHDRAW
GRANTED

MIKE MURPHY, Judge

This is a no-merit appeal filed on behalf of William Jones following the Crittenden County Circuit Court's revocation of his suspended imposition of sentence (SIS). We grant counsel's motion to withdraw and affirm.

In 2014, Jones pleaded guilty to two counts of breaking or entering and one count of theft of property. He was sentenced to three years in the Arkansas Department of Correction and three years SIS.

In August 2016, the State sought to revoke Jones's SIS, and a hearing was held on August 16, 2016. The court received stipulated payment-history records prepared by the Crittenden County Sheriff's Office. It also heard testimony from Darrell Little and Cody Gross, police officers with the West Memphis Police Department. Officer Little testified

that on February 5, 2016, he observed what he perceived to be odd behavior by Jones when Jones was looking in dark windows of a store at 9:00 at night. When Jones saw Little, Jones walked toward his car and got in it. Little initiated a traffic stop based on Jones's odd behavior. Little checked Jones's ID, and dispatch advised him Jones was a parolee. Gross arrived to assist and asked if he could search Jones's car, and Jones consented. Gross testified that "as soon as [he] opened the door" he saw a "crystalline rock substance that appeared to be methamphetamine." The substance field-tested positive as methamphetamine. Jones was arrested. Gross then forwarded the substance to the Arkansas State Crime Lab where it was confirmed to be methamphetamine. That report was admitted into evidence.

At the conclusion of the hearing, the court found by a preponderance of the evidence that Jones had violated the conditions that he (1) live a law-abiding life, be of good behavior, and not violate any state, federal, or municipal laws; (2) committed possession of a controlled substance; and (3) failed to pay toward his fines, fees, and costs.

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), and Arkansas Supreme Court Rule 4-3(k) (2017), Jones's attorney has filed a no-merit brief and a motion to withdraw addressing all of the adverse rulings made at the revocation hearing, explaining why each adverse ruling is not a meritorious ground for reversal, and requesting to be relieved as counsel. Jones was provided with a copy of his counsel's brief and motion and informed of his right to file pro se points. He has not done so.

Because this is a no-merit appeal, 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*, 386 U.S. at 744; Ark. Sup. Ct. R. 4-3(k)(1); *Eads v. State*, 74 Ark. App. 363, 365, 47 S.W.3d 918, 919 (2001). The test is not whether counsel thinks the trial court committed no reversible error but whether the points to be raised on appeal would be wholly frivolous. *Anders*, 386 U.S. at 744; *Eads*, 74 Ark. App. at 365, 47 S.W.3d at 919. Pursuant to *Anders*, we are required to determine whether the case is wholly frivolous after a full examination of all the proceedings. *Id.*

Jones's attorney correctly argues that any appeal stemming from the court's adverse rulings related to Jones's failure to live a law-abiding life and possession of controlled substances would be frivolous because Jones's SIS was also revoked based on failure to pay court-ordered fines, fees, and costs. In order to support revocation of probation, the State has the burden of proof but need prove only one violation. *Peals v. State*, 2015 Ark. App. 1, at 4, 453 S.W.3d 151, 154 (citing *Robinson v. State*, 2014 Ark. App. 579, 446 S.W.3d 190). Here, the evidence of Jones's failure to pay was introduced without objection, and Jones did not dispute that he had failed to pay as ordered. The revocation for failure to pay makes any alleged errors as to other grounds harmless.

Even still, counsel also included in his brief five additional rulings made at trial and explained why they would not support a meritorious appeal. The objections made by trial counsel included an objection to questioning that asked for a conclusory answer and one when the State led the witness. In both instances, the questions were rephrased, and thus

there were no rulings adverse to the appellant. The objections by the State included two for questions that called for speculation and one for a lack of foundation. We agree with counsel that none of these rulings constituted reversible error.

We have thoroughly reviewed the entire record and counsel's brief and conclude that Jones's counsel has adequately explained why there is no meritorious ground for appeal. Because there was sufficient evidence to support revocation due to Jones's failure to pay and because there were no evidentiary objections or other adverse rulings related to this ground, we affirm the revocation and grant the motion to withdraw.

Affirmed; motion to withdraw granted.

GLADWIN and HARRISON, JJ., agree.

S. Butler Bernard, Jr., for appellant.

One brief only.