

Cite as 2018 Ark. App. 315
ARKANSAS COURT OF APPEALS

DIVISION I
No. CR-17-25

JAMES EDWARD CRIPPEN

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered May 16, 2018

APPEAL FROM THE CRAWFORD
COUNTY CIRCUIT COURT
[NO. 17CR-14-461]

HONORABLE GARY COTTRELL,
JUDGE

AFFIRMED; MOTION TO WITHDRAW
GRANTED

LARRY D. VAUGHT, Judge

A Crawford County jury convicted James Edward Crippen of trafficking methamphetamine, possessing drug paraphernalia, and fleeing. He was sentenced by the circuit court to twenty-five years' imprisonment, five years' imprisonment and a \$5,000 fine, and six years' imprisonment, respectively, to run consecutively, for a total of thirty-six years.

In this no-merit appeal, Crippen's appellate attorney has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), and Arkansas Supreme Court Rule 4-3(k)(1) (2017), seeking to withdraw as counsel on the basis that there is no merit to an appeal. On July 24, 2017, Crippen filed pro se points pursuant to Rule 4-3(k)(2), alleging that three reports filed by the Drug Task Force listed differing amounts of methamphetamine, which he claims caused him to be overcharged with trafficking. On February 26 and March 21, 2018, Crippen filed additional pro se points, recharacterizing his July 24, 2017 arguments and adding

ineffective-assistance-of-counsel and confrontation-clause arguments. The State has filed briefs in response to each of Crippen's pro se points as required by Rule 4-3(k)(3).

On September 22, 2014, Crippen was charged by felony information as a habitual offender with simultaneous possession of drugs and firearms, trafficking methamphetamine, possession of drug paraphernalia, theft by receiving, fleeing, and possession of a firearm by certain persons. At trial, drug-task-force officer Lanny Reese testified that in the summer of 2014, he was investigating Crippen and others who were suspected of delivering and receiving large quantities of methamphetamine by mail. On September 12, 2014, Officer Reese received a call from a FedEx employee reporting that Crippen was attempting to pick up a package. Reese, along with other law-enforcement officers from the Van Buren and Fort Smith police departments, observed Crippen as he picked up the package, and they followed him when he left. An arrest warrant had been issued for Crippen, and when officers attempted to initiate a traffic stop, Crippen fled. He was soon apprehended and arrested.

Officer Reese testified that the search incident to Crippen's arrest uncovered FedEx packaging addressed to Crippen from an individual in California and a case containing what was later determined by the Arkansas State Crime Laboratory to be 200.4 grams of pure methamphetamine. Reese testified that 200 grams of pure methamphetamine had a street value of \$20,000. He further testified that if the methamphetamine was "cut" with some other agent, the amount of methamphetamine could be doubled or tripled, which would accordingly double or triple the street value of the drugs. Officer Reese opined that this amount of methamphetamine was not strictly for personal use; rather, it was for distribution.

Van Buren police officer Stephen Lawrence testified that he tried to initiate the traffic stop of Crippen. Officer Lawrence stated that when he activated his lights and siren, Crippen pulled toward the side of the road, but when he realized that he was being stopped, he fled. Officer Lawrence stated that he chased Crippen, who was traveling approximately forty-five miles an hour. The officer also stated that there were many other vehicles in the area and that Crippen ran a red light at an intersection. Officer Lawrence said that he stopped Crippen soon thereafter.

Brent Grill, of the Van Buren police department, testified that once Crippen's vehicle was stopped by police, a canine alerted on the vehicle. Officer Grill testified that they searched Crippen's vehicle and found the methamphetamine. Officer Grill later interviewed Crippen, who stated that the drugs in the car were his and not his passenger's, his girlfriend Loretta Hammond. He also said that he had been a drug user for twenty to twenty-five years, and if officers searched his home, they would find syringes. Officer Grill participated in the search of Crippen's home at 323 North 11th Street in Van Buren, Arkansas. The officer testified that they found drug paraphernalia and firearms in the home.

Van Buren police officer Mark House testified that he interviewed Loretta Hammond after the traffic stop. Hammond said that she and Crippen lived in a house at 323 North 11th Street in Van Buren and that there were firearms and drug paraphernalia in the home. Officer House participated in the search of Hammond and Crippen's home and testified that officers found a copy of a lease with Hammond and Crippen's names on it, used syringes, a

set of digital scales, a drug ledger, copies of cash money transfers from Crippen to individuals in California,¹ and four weapons. No drugs were found in the home.

At the conclusion of the State's case, Crippen's counsel moved for a directed verdict on all charges except the possession-of-drug-paraphernalia charge. The circuit court granted the motions on the charges of simultaneous possession of drugs and firearms and possession of a firearm by certain persons but denied the motions with respect to the charges of trafficking methamphetamine, theft by receiving, and fleeing. The defense rested and renewed the motions for directed verdict on the remaining charges (except the possession-of-drug-paraphernalia charge), which were again denied by the court.² The jury convicted Crippen of trafficking methamphetamine, possession of drug paraphernalia, and fleeing and acquitted Crippen of the theft-by-receiving charge. This no-merit appeal followed.³

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. *Furo v. State*, 2018 Ark. App. 23, at 2 (citing Ark. Sup. Ct. R. 4-3(k)(1)). 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.* (citing *Eads v. State*, 74 Ark. App. 363, 47 S.W.3d 918 (2001)). This framework ensures that indigents are afforded their

¹Officer House testified that from April to September 2014, there were ten cash transfers from Crippen to individuals in California totaling \$6,403.

²The circuit court later dismissed the habitual-offender charge.

³This is Crippen's appellate counsel's second attempt in filing a no-merit appeal. In the first attempt, we denied counsel's motion to be relieved and ordered rebriefing based on a briefing deficiency. *Crippen v. State*, 2018 Ark. App. 35. In this second attempt, counsel has corrected the deficiency.

constitutional rights. *Id.* (citing *Campbell v. State*, 74 Ark. App. 277, 47 S.W.3d 915 (2001)). In furtherance of the goal of protecting these constitutional rights, it is the duty of both counsel and this court to perform a full examination of the proceedings as a whole to decide if an appeal would be wholly frivolous. *Id.*

In compliance with the directives in *Anders* and Rule 4-3(k)(1), counsel for Crippen contends that she has thoroughly examined the circuit court record of this proceeding and found no error that would support an appeal. As required by Rule 4-3(k), the reasons the adverse rulings provide no meritorious grounds for appeal are discussed in her brief. Counsel indicates, and we confirm, that there were three unfavorable rulings for Crippen: (1) the circuit court's denial of Crippen's motion for directed verdict on the fleeing charge; (2) the circuit court's denial of Crippen's motion for directed verdict on the trafficking charge; and (3) the circuit court's decision to run Crippen's sentences consecutively rather than concurrently.

Based on our review of the record and the brief presented, we conclude that there has been compliance with Rule 4-3(k)(1), there are no nonfrivolous issues that support an appeal in this case, and this appeal has no merit. Furthermore, we conclude that there is no merit to Crippen's pro se points in that they are either not preserved for appeal or do not support reversal. Consequently, we grant Crippen's counsel's motion to be relieved and affirm the convictions.

Affirmed; motion to withdraw granted.

KLAPPENBACH and MURPHY, JJ., agree.

Lisa-Marie Norris, for appellant.

Leslie Rutledge, Att'y Gen., by: *Valerie Glover Fortner*, Ass't Att'y Gen., for appellee.