

Cite as 2023 Ark. App. 286  
**ARKANSAS COURT OF APPEALS**  
DIVISION IV  
No. CR-22-58

SYNTHIA ANN TRAVIS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered May 17, 2023

APPEAL FROM THE SALINE  
COUNTY CIRCUIT COURT  
[NO. 63CR-18-530]

HONORABLE JOSH FARMER, JUDGE

AFFIRMED; MOTION TO  
WITHDRAW GRANTED

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**BART F. VIRDEN, Judge**

This is a no-merit appeal filed on behalf of Synthia Ann Travis following the Saline County Circuit Court’s revocation of her probation in a previous criminal case, case number 63CR-18-530. Travis’s attorney previously filed a no-merit brief in this matter that failed to address all the adverse rulings. We ordered rebriefing, and now counsel has filed a no-merit brief that complies with *Anders v. California*, 386 U.S. 738 (1967), and Arkansas Supreme Court Rule 4-3(b) (2021), along with a motion to be relieved as counsel asserting that there is no issue of arguable merit on appeal. Travis was notified of her right to file pro se points in response to her counsel’s brief, and she has done so; however, her pro se points were untimely filed. The clerk of our court sent Travis a letter via certified mail explaining that she must file a motion for belated brief with this court for her points for reversal to be accepted. *See* Ark. Sup. Ct. R. 4-3(a)(2). Travis did not file such a motion. For that reason,

we decline to review her points on appeal. We affirm the revocation of Travis's probation and grant counsel's motion to be relieved.

On June 22, 2018, Travis was charged with possession of controlled substance - Schedule I/II, methamphetamine pursuant to Arkansas Code Annotated section 5-64-419(b)(1)(B) (Supp. 2021); possession of controlled substance - Schedule I/II, not methamphetamine, pursuant to section 5-64-419(b)(2)(A); and possession of drug paraphernalia to ingest, inhale, etc., pursuant to section 5-64-443(a)(2) (Supp. 2021). On March 4, 2020, Travis pleaded guilty to possession of a controlled substance - Schedule I/II, methamphetamine, pursuant to section 5-64-419(b)(1)(B), and possession of drug paraphernalia to ingest, inhale, etc., pursuant to section 5-64-443(a)(2). She was sentenced to thirty-six months' probation. The terms of Travis's probation required that she abide by certain written conditions of behavior, including but not limited to, the following: reporting to her supervising officer; cooperating and being honest with her supervising officer; maintaining gainful employment or enrolling in an accredited, approved education program; notifying her supervising officer of any travel plans or change in residence; obeying all laws; refraining from drug or alcohol use or possession; refraining from possessing a firearm; and avoiding association with others engaged in criminal activity.

In May 2021, the State filed a fifth amended petition to revoke Travis's probation for violating the above-listed probation conditions. At the hearing conducted on August 18, Agent Courtney Cooper of the Arkansas Department of Community Correction testified that she was not Travis's supervising officer, but she was the record keeper, and she had

access to Travis's file. Cooper explained that she went over the terms of probation with Travis, and Travis signed the paperwork, acknowledging that she understood the terms and conditions. From her review of Travis's file, Cooper testified to the following information. Travis failed to report on April 21, April 23, and May 14. She had not provided any proof of employment or proof of her address, though she had moved several times. Travis tested positive for drugs or alcohol nine times and admitted to drug or alcohol use one time. Travis had been arrested several times since her release for committing new offenses on August 15 and September 17, 2020, and on January 24, March 26, and April 15, 2021. One of her arrests was for being a felon in possession of a firearm. On three different occasions, she was known to have associated with other convicted felons. Travis failed to appear on April 15. She was untruthful with her supervising officer regarding the multiple arrests and probation violations.

Corporal James Bell of the Saline County Sheriff's Office testified that he pulled Travis over on Highway 5. Travis had been driving a motorcycle, and Bell testified that when he approached her and asked her to step off the motorcycle, she grabbed a bag and a wallet and "started backing away from me, putting the bike between me and herself at that point." Eventually, Travis stopped, and Bell found an eyeglass case on the ground next to her containing what he believed to be methamphetamine, pills, heroin, and a meth pipe. Travis's backpack held about twenty-six grams of methamphetamine.

At the conclusion of the hearing, counsel requested that the court allow Travis to participate in drug court rather than revoke her probation. The circuit court denied the

request, stating that this was not the first time Travis had been arrested, and it appeared that Travis was dealing methamphetamine. The circuit court revoked Travis's probation and sentenced her to ten years' incarceration in the Arkansas Department of Correction for possession of methamphetamine (a Class C felony) and six years' incarceration for possession of drug paraphernalia (a Class D felony), to run consecutively. Travis's attorney timely filed a notice of appeal from the sentencing order.

Travis's attorney has filed a no-merit brief and a motion to be relieved as counsel. A request to withdraw on the ground that the appeal is wholly without merit shall be accompanied by a brief, including 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. *Bohanon v. State*, 2020 Ark. App. 22, 594 S.W.3d 92. In considering a no-merit brief, we must determine whether, after a full examination of the proceedings, there is any nonfrivolous basis for an appeal. *Id.*

Travis's attorney contends that there is no nonfrivolous argument that could serve as the basis for an appeal regarding the sufficiency of the State's evidence against her. To revoke probation, the State must prove by a preponderance of the evidence that the defendant violated a condition of his or her probation. *Stewart v. State*, 2021 Ark. App. 289, 624 S.W.3d 357. We will not reverse the circuit court's findings unless they are clearly against the preponderance of the evidence. *Id.* Determining whether a preponderance of the evidence exists turns on questions of credibility and weight to be given to the testimony. *Id.* There

were multiple violations found to be true by the circuit court, and any one of those violations would support revocation. The above testimony adduced at the hearing supports the circuit court's revocation. There was evidence presented that Travis possessed drugs, committed numerous new crimes, associated with criminals, failed to report to her supervising officer, failed to notify her supervising officer of her address or change to her address, and possessed a firearm. Because Travis chose not to testify, the testimony was uncontroverted; thus, the revocation does not present a meritorious ground for reversal.

Counsel contends that the only other adverse ruling was the court's denial of Travis's request to participate in drug court rather than revoke her probation. Counsel explains that the circuit court denied the request, ruling that Travis had "just too many opportunities that [she has] just flat out not taken advantage of. If this were the first or second time in here, I probably would recommend drug court." In a revocation proceeding, the circuit court has discretion in the sentence imposed and is authorized to impose any sentence that it could have imposed originally. Ark. Code Ann. § 16-93-308(g)(1)(A) (Supp. 2021). Here, Travis was sentenced within the statutory guidelines. See Ark. Code Ann. § 5-4-401(a)(4) & (5) (Repl. 2013).<sup>1</sup> Sentencing in Arkansas is entirely a matter of statute, and no sentence shall be imposed other than as prescribed by statute. *Lenard v. State*, 2014 Ark. 478, 522 S.W.3d 118. When the sentence given is within the maximum prescribed by law, the sentence is not

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<sup>1</sup>For a Class C felony, the maximum sentence is ten years' incarceration in the Arkansas Department of Correction, and for a Class D felony, the maximum sentence is six years' incarceration.

illegal because the court has the authority to impose it. *Richie v. State*, 2009 Ark. 602, 357 S.W.3d 909. This court has held that the circuit court has discretion to set punishment within the statutory range of punishment provided for a particular crime. *Whitmore v. State*, 2018 Ark. App. 44, 539 S.W.3d 596. No meritorious argument could be made that the circuit court abused its discretion in not reinstating her probation or placing her in the drug-court program.

Counsel has demonstrated that there is no issue of arguable merit to raise on appeal as to the sufficiency of the evidence to revoke or Travis's sentence. From our review of the record and the brief presented to this court, we hold that counsel has complied with *Anders* and Rule 4-3, and the appeal is without merit. Accordingly, we affirm the revocation and grant counsel's motion to withdraw.

Affirmed; motion to withdraw granted.

HARRISON, C.J., and ABRAMSON, J., agree.

*Jones Law Firm*, by: *F. Parker Jones III* and *Vicram Rajgiri*, for appellant.

One brief only.