

Cite as 2023 Ark. App. 4
ARKANSAS COURT OF APPEALS
DIVISION IV
No. CR-22-58

SYNTHIA TRAVIS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered January 18, 2023

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

HONORABLE JOSH FARMER, JUDGE

REBRIEFING ORDERED; MOTION
TO WITHDRAW DENIED

BART F. VIRDEN, Judge

The Saline County Circuit Court revoked appellant Synthia Travis’s probation after determining that she had violated the terms and conditions of her probation and sentenced her to sixteen years’ imprisonment. Travis’s counsel filed a no-merit brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), and Ark. Sup. Ct. R. 4-3(b)(1), along with a motion to withdraw as counsel, asserting that there is no issue of arguable merit for an appeal. Travis was notified by certified mail that she has a right to file pro se points for reversal, but she has not filed any points. Because defense counsel has failed to comply with *Anders* and Rule 4-3, we deny his motion to withdraw and order rebriefing.

A request to withdraw on the ground that the appeal is wholly without merit must be accompanied by a brief containing an argument section that consists of a list of all rulings

adverse to the defendant made by the trial 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. Ark. Sup. Ct. R. 4-3(b)(1). A no-merit brief in a criminal case that fails to address an adverse ruling does not satisfy the requirements of Rule 4-3(b)(1), and rebriefing will be required. *Moore v. State*, 2022 Ark. App. 5.

In the argument section of his brief, defense counsel states that “[Travis] raised no objections on the record and no objections were preserved for appeal.” He asserts that the only motion made by Travis was her request at the conclusion of the hearing to be placed in the drug-court program and suggests that the trial court did not abuse its discretion by denying that motion. Defense counsel then summarizes the testimony and simply concludes, “There was sufficient evidence, and the ordered sentence of 192 months ADC was legal in all respects.”

Defense counsel does not acknowledge that the revocation itself was an adverse ruling. *Bennion v. State*, 2021 Ark. App. 297; *see also Von Holt v. State*, 2009 Ark. App. 544, 336 S.W.3d 875. Although defense counsel did not move for dismissal at the conclusion of the hearing, the supreme court has held that the requirements of Ark. R. Crim. P. 33.1 pertaining to motions for dismissal and directed verdict do not apply to revocation hearings. *Barbee v. State*, 346 Ark. 185, 56 S.W.3d 370 (2001). Thus, a motion to dismiss is not required to preserve the issue of the sufficiency of the evidence in revocation proceedings. *Id.* Accordingly, defense counsel must *discuss* the sufficiency of the evidence supporting the revocation of Travis’s probation in light of the appropriate standard of review.

Defense counsel is directed to file a substituted brief within fifteen days from the date of this opinion. We encourage counsel to first review *Anders* and Rule 4-3(b)(1) regarding the requirements of a no-merit brief. If a substituted no-merit brief is filed, our clerk will again forward counsel's motion and brief to Travis, and she will have thirty days within which to raise pro se points. In the event that Travis files pro se points, the State will be given an opportunity to file a responsive brief. Counsel's motion to withdraw is denied without prejudice at this time, and we order rebriefing to discuss all adverse rulings including, but not limited to, the sufficiency of the evidence supporting the revocation of Travis's probation.

Rebriefing ordered; motion to withdraw denied.

ABRAMSON and KLAPPENBACH, JJ., agree.

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

One brief only.