

Cite as 2011 Ark. App. 465

ARKANSAS COURT OF APPEALSDIVISION IV
No. CACR11-18ANTHONY DEWAYNE PRICE
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE**Opinion Delivered** JUNE 29, 2011APPEAL FROM THE SEBASTIAN
COUNTY CIRCUIT COURT, FORT
SMITH DISTRICT
[NO. CR-2003-1320]HONORABLE JAMES O. COX,
JUDGEREMANDED; REBRIEFING
ORDERED; MOTION TO
WITHDRAW DENIED**JOSEPHINE LINKER HART, Judge**

In a judgment and commitment order filed October 26, 2010, the circuit court sentenced appellant, Anthony Dewayne Price, to a total of 120 months' imprisonment after revoking his suspended imposition of sentences in four separate cases. According to the order, those four cases include (1) a 2003 case involving the offense of possession of marijuana with the intent to deliver; (2) a 2005 case involving the offenses of possession of cocaine with the intent to deliver and possession of drug paraphernalia; (3) a 2005 case involving the offense of delivery of cocaine; (4) a 2007 case involving the offense of second-offense possession of marijuana.

Price's counsel has filed, in accordance with *Anders v. California*, 386 U.S. 738 (1967), and Arkansas Supreme Court Rule 4-3(k) (2011), a motion to withdraw on the ground that

Cite as 2011 Ark. App. 465

the appeal is wholly without merit along with a brief containing an argument section that lists all rulings adverse to Price made by the circuit court with an explanation as to why each adverse ruling is not a meritorious ground for reversal. Missing from the record and counsel's brief, however, are documents necessary for an *Anders* review. We do not have, for example, the judgments, accompanying conditions, and other documents related to the 2003, 2005, and 2007 cases. Nor do we have the judgment and other documents related to a revocation proceeding that apparently occurred in 2006. These missing items are material to our review of the order of revocation. For instance, without the conditions, we cannot decide the sufficiency of the evidence to support the finding that Price violated a condition, and without the judgments, we cannot consider the legality of the sentences imposed upon revocation. *Hadley v. State*, 2010 Ark. App. 536. As another example, any information relating to Price's releases from imprisonment would assist this court in determining when his suspended sentences began to run.

We acknowledge that some of these items are in a record filed in an earlier proceeding, *Price v. State*, CACR07-31 (Ark. App. June 20, 2007) (unpublished), which is available in the office of the Clerk of the Arkansas Supreme Court. The items were not, however, placed in counsel's brief. As for the other items, if anything material to either party is omitted from the record by error or accident, we may direct that the omission be corrected and that a supplemental record be certified and transmitted. Ark. R. App. P.–Civ. 6(e) (2011) (as made applicable to criminal cases by Ark. R. App. P.–Crim. 4(a) (2011)). Accordingly,

Cite as 2011 Ark. App. 465

we remand the case to the circuit court for the record to be settled and supplemented within thirty days. After the record is supplemented, Price's counsel will have fifteen days to file a substituted brief so that these items may be included in the brief on appeal. Ark. Sup. Ct. R. 4-2(b)(3) (2011).

Remanded to settle and supplement the record; rebriefing ordered; motion to withdraw denied.

VAUGHT, C.J., and GLOVER, J., agree.