Cite as 2009 Ark. App. 811

ARKANSAS COURT OF APPEALS

DIVISION IV

No. CACR09-707

	Opinion Delivered 2 DECEMBER 2009
STEVEN RAY LUDLAM, APPELLANT	APPEAL FROM THE LINCOLN COUNTY CIRCUIT COURT, [NO. LCR-08-37-1]
V.	THE HONORABLE BERLIN C. JONES, JUDGE
STATE OF ARKANSAS, APPELLEE	AFFIRMED; MOTION TO WITHDRAW GRANTED

D.P. MARSHALL JR., Judge

After a jury convicted Steven Ludlam of theft of property (a Class A misdemeanor) and breaking or entering (a Class D felony), the circuit court sentenced him to twelve years in prison. Ludlam's counsel has filed a no-merit brief and moved to withdraw pursuant to *Anders v. California*, 386 U.S. 738 (1967) and our Rule 4-3(k)(1). Ludlam has filed pro se points.

Ludlam's lawyer has identified each adverse ruling that might support an appeal and discussed why each does not provide a meritorious ground for reversal. *Eads v. State*, 74 Ark. App. 363, 365, 47 S.W.3d 918, 919 (2001). We agree that an appeal on the merits would be wholly frivolous. *Ofochebe v. State*, 40 Ark. App. 92, 93, 844 S.W.2d 373, 374 (1992).

Ludlam was convicted of stealing tools, window frames, doors, and a vehicle battery. At trial, the victim testified that he did not give Ludlum or Brian Archa permission to take his property. Archa testified he entered a shed and tossed items out the window. Ludlam broke the items into smaller pieces. And then the pair loaded them into Ludlum's car. Ludlam testified he did not have permission to take anything from the premises. He thought Archa did. But Archa said that he had no such permission. The victim's neighbor saw Ludlam and Archa driving to and from the victim's home—the last home on a dead-end road. On the return trip, the trunk was up on Ludlam's car. By this time, the neighbor had called the police. When the sheriff arrived, Archa jumped out of the car and ran.

Before the trial started, the parties invoked Arkansas Rule of Evidence 615, which bars witnesses from being in the courtroom during trial. While cross-examining Archa, Ludlam's lawyer tried to ask a question prefaced with a prior witness's testimony. The court sustained the State's objection. This decision correctly applied Rule 615 and its purpose: preventing one witness from changing his testimony to match another's. Ark. R. Evid. 615; *Chambers v. State*, 264 Ark. 279, 279–81, 571 S.W.2d 79, 80–81 (1978).

The only other adverse rulings were the circuit court's denials of Ludlam's motions for a directed verdict. The record contains substantial evidence on each

disputed issue of fact. The victim and Ludlam established the stolen property's value. *O'Riordan v. State*, 281 Ark. 424, 426, 665 S.W.2d 255, 257 (1984). Testimony from the victim and Archa showed that the taking was unauthorized. And testimony from the neighbor and the sheriff, along with the fact that Ludlam was found with the stolen items, corroborated Archa's testimony. *Hogue v. State*, 323 Ark. 515, 519, 915 S.W.2d 276, 279 (1996).

Ludlam raises nine points pro se. None of these issues were raised below, and thus none are preserved for appeal. *Davis v. State*, 330 Ark. 501, 506, 956 S.W.2d 163, 165 (1997). Had these points been preserved, we would still affirm. First, Archa was subpoenaed to testify against Ludlam, but Archa was not required to testify under the terms of his guilty plea. Contrary to Ludlam's characterization, there is no evidence of coerced testimony. Second, Ludlam is not innocent simply because Archa pleaded guilty to these crimes. Ludlam was convicted as an accomplice, and the law makes no distinction between a principal and an accomplice for criminal liability. *Riggins v. State*, 317 Ark. 636, 641, 882 S.W.2d 664, 666 (1994). Third, Ludlam did not receive an excessive sentence. His four prior felony convictions were relevant evidence at sentencing. Ark. Code Ann. § 16-97-103(2) (Repl. 2006). The sentencing range for a Class D felony for someone who has been convicted of four felonies is zero to fifteen years. Ark. Code Ann. § 5-4-501 (Supp. 2009). Ludlam's twelve-year sentence was

within the statutory range.

Affirmed; motion to withdraw granted.

GRUBER and HENRY, JJ., agree.