

ARKANSAS COURT OF APPEALS  
NOT DESIGNATED FOR PUBLICATION  
BRIAN S. MILLER, JUDGE

DIVISION II

CACR06-0577

June 27, 2007

SAMANTHA MEREDITH TOMBERLIN  
APPELLANT

v.

STATE OF ARKANSAS

APPELLEE

AN APPEAL FROM THE WHITE  
COUNTY CIRCUIT COURT  
[CR-03-548]

HONORABLE WILLIAM PICKENS MILLS,  
JUDGE

AFFIRMED; MOTION TO WITHDRAW  
GRANTED

Following a bench trial, appellant Samantha Tomberlin was convicted of violating Ark. Code Ann. § 5-37-302 (Repl. 2006), the Arkansas Hot Check Law. She was sentenced to three years' probation.

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), and Rule 4-3(j) of the Rules of the Arkansas Supreme Court and Court of Appeals, Tomberlin's counsel has filed a motion to withdraw on the ground that this appeal is wholly without merit. The motion was accompanied by a brief purportedly discussing all matters in the record that might arguably support an appeal, including the adverse rulings, and a statement as to why counsel considers each point raised as incapable of supporting a meritorious appeal. Tomberlin was provided with a copy of her counsel's brief and notified of her right to file pro se points for reversal.

Tomberlin has elected to file points for reversal. The State has filed a brief in response to Tomberlin's pro se points.

In her points for reversal, Tomberlin challenges the sufficiency of the evidence to support her conviction. Tomberlin, however, waived her challenge to the sufficiency of the evidence when she failed to renew her motion for directed verdict at the close of all the evidence. Rule 33.1 (b) of the Arkansas Rules of Criminal Procedure provides:

In a nonjury trial, if a motion for dismissal is to be made, it shall be made at the close of all of the evidence. The motion for dismissal shall state the specific grounds therefor. If the defendant moved for dismissal at the conclusion of the prosecution's evidence, then the motion must be renewed at the close of all of the evidence.

Rule 33.1 is strictly construed. *State v. Holmes*, 347 Ark. 689, 66 S.W.3d 640 (2002).

Tomberlin failed to renew her motion for directed verdict at the close of all the evidence; accordingly, any challenge to the sufficiency of the evidence is not preserved for appellate review.

From our review of the record, the brief presented to us, and Tomberlin's points for reversal, we find compliance with Rule 4-3(j) and that the appeal is without merit. Accordingly, counsel's motion to withdraw is granted, and the judgment of conviction is affirmed.

Affirmed.

GLADWIN and MARSHALL, JJ., agree.