

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CACR07-1218

DARNELL MILLER

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered JUNE 25, 2008

APPEAL FROM THE CRITTENDEN
COUNTY CIRCUIT COURT
[NO. CR-05-1058]

HONORABLE DAVID N. LASER,
JUDGE

REBRIEFING ORDERED

KAREN R. BAKER, Judge

The Crittenden County Circuit Court sentenced appellant Darnell Miller to two years in the Arkansas Department of Correction following the court's revocation of appellant's probation stemming from a guilty plea with respect to the charge of possession of a controlled substance, Class C felony. The revocation was based on the trial court's determination that appellant had violated the terms of his probation by failing to pay fines, costs, and fees, and committing theft by receiving. 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, appellant's counsel has filed a motion to withdraw on grounds that the appeal is without merit. However, appellant's counsel failed to fully address each of the rulings adverse to appellant. Accordingly, we order rebriefing.

Appellant's counsel has filed an *Anders* brief and requests to be relieved as counsel. The brief accompanying an attorney's request to withdraw from appellate representation on the ground that the appeal is wholly without merit must contain a list of all rulings adverse to the defendant

made by the trial court and an explanation as to why each adverse ruling does not constitute a meritorious ground for reversal. *Eads v. State*, 74 Ark. App. 363, 47 S.W.3d 918 (2001). In deciding whether to allow counsel to withdraw from appellate representation, the test is not whether counsel thinks the trial court committed no reversible error, but rather whether the points to be raised on appeal would be wholly frivolous. *Id.* Additionally, this court is bound to perform a full examination of the proceedings as a whole to decide if an appeal would be wholly frivolous. *Campbell v. State*, 74 Ark. App. 277, 47 S.W.3d 915 (2001) (quoting *Anders*, 386 U.S. at 744).

Our review of the proceedings as a whole reveals that counsel failed to address each adverse ruling. Specifically, there are two adverse rulings—the denial of his directed-verdict motion and the denial of the renewal of the directed-verdict motion—that are included in appellant’s brief; however, neither of them are included in appellant’s abstract. Moreover, one ruling that counsel for appellant does not include in either the abstract or the brief is the State’s objection to hearsay during Officer Miller’s testimony that was sustained by the trial court. Because counsel fails to demonstrate that an appeal from each of the adverse rulings would be wholly frivolous, we remand for rebriefing. *See Skiver v. State*, 330 Ark. 432, 954 S.W.2d 913 (1997) (ordering rebriefing where counsel failed to address all rulings adverse to the defendant made by the trial court).

Rebriefing ordered.

HART and HEFFLEY, JJ., agree.