

NOT DESIGNATED FOR PUBLICATION
ARKANSAS COURT OF APPEALS

DIVISION III
No. CACR 07-941

JAYSON WAYNE CARROLL
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered JUNE 25, 2008

APPEAL FROM THE COLUMBIA
COUNTY CIRCUIT COURT,
[NO. CR-06-55-5]

HONORABLE HAMILTON H.
SINGLETON, JUDGE

REBRIEFING ORDERED

JOHN B. ROBBINS, Judge

Appellant Jayson Wayne Carroll was convicted by a jury of second-degree escape, and was sentenced as a habitual offender to twelve years in prison. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), and 4-3(j)(1) of the Rules of the Arkansas Supreme Court and Court of Appeals, appellant's counsel has filed a motion to withdraw on the grounds that this appeal is without merit. Appellant's counsel's motion was accompanied by a brief that purports to discuss all matters that might arguably support an appeal, including each adverse ruling, and a statement as to why each point raised would not be a meritorious ground for reversal. Mr. Carroll was furnished with a copy of his counsel's brief and notified of his right to file a statement of pro se points within thirty days, and Mr. Carroll has filed such a statement. Because our review has disclosed that portions of the record have been omitted, we do not reach the merits of the

motion to be relieved at this time, but instead direct appellant's counsel to supplement the record.

Mr. Carroll's notice of appeal designated the entire record of the proceedings. However, in a subsequent amendment to the designation of record, appellant's counsel requested that the jury voir dire and opening statements of counsel be omitted from the record. The partial record before us does not contain jury voir dire or opening statements per appellant's designation. We are not able to determine whether there has been compliance with *Anders* unless we are provided with a complete record on appeal. See *Campbell v. State*, 74 Ark. App. 277, 47 S.W.3d 915 (2001).

We note that the motion to withdraw is also deficient because, while appellant's counsel has discussed most of the adverse rulings contained in the partial record now before us, one has been omitted. In particular, on page 158 of the transcript appellant asked the trial court to suspend part of his sentence, and the trial court denied the request. Rule 4-3(j)(1) provides that the brief shall contain an argument section listing all adverse rulings and an explanation as to why each adverse ruling is not a meritorious ground for reversal.

Consequently, we direct appellant's counsel to supplement the record on appeal to include the portions of the record originally omitted, and to file a substituted brief that contains an abstract and discussion of all of the objections decided adversely to appellant contained in the record, including any adverse rulings that may be contained in those parts of the record that are not yet before us.

Supplementation of record and rebriefing ordered.

GRIFFEN and VAUGHT, JJ., agree.