

ARKANSAS COURT OF APPEALSDIVISION I
No. CACR11-972

LATOYA NICOLE AYERS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered April 18, 2012

APPEAL FROM THE SALINE
COUNTY CIRCUIT COURT
[No. CR2008-024-2]HONORABLE GARY ARNOLD,
JUDGE

DISMISSED

LARRY D. VAUGHT, Chief Judge

Latoya Nichole Ayers appeals the Saline County Circuit Court's June 22, 2011 order revoking her probation. Ayers contends that there was insufficient evidence to show that she inexcusably failed to comply with the conditions of her probation. We dismiss the appeal for lack of jurisdiction.

On April 25, 2008, Ayers pled guilty to second-degree forgery and possession of marijuana and was sentenced to four years' probation and ordered to pay restitution, court costs, fees, and a fine. She was also required to comply with the conditions of her probation. On October 22, 2009, the State filed a petition to revoke Ayers's probation asserting that she violated the following conditions by failing to: report to her probation officer as directed; pay court-ordered fees and costs; complete 150 hours of community service; report current contact information; attend an Arkansas Department of Correction tour; and remain chemical free. At a revocation hearing on April 12, 2010, Ayers pled guilty to failing to report to her

probation supervisor. By agreement between the parties, sentencing was postponed to July 12, 2010.

Ayers failed to appear at the July 12, 2010 sentencing hearing. An arrest warrant was issued, and she was apprehended in May 2011. On June 20, 2011, Ayers appeared at a sentencing hearing where she admitted that she was not sentenced for her probation violation in July 2010 because she absconded fearing incarceration. She asked the trial court for another chance at probation, acknowledging that she had a drug problem, but adding that she had been accepted to a drug-rehabilitation facility and desired to attend. She told the trial court that she had three children to care for and that she would start complying with court orders. Ayers's aunt also testified, asking the trial court to give Ayers another chance.

At the conclusion of the hearing, the trial court found that Ayers had already had two chances and "totally ignored them." The court stated that it did not believe Ayers would voluntarily attend drug rehabilitation and stay out of trouble. The trial court sentenced Ayers to three years' imprisonment in a regional correctional facility. A judgment and commitment order was entered June 22, 2011, revoking Ayers's probation and imposing the three-year prison sentence. Ayers timely appealed.

On appeal, Ayers challenges the sufficiency of the evidence in this case, claiming that there was insufficient evidence to demonstrate that her conditions of probation were violated. She lists the seven conditions that the State's petition alleged she violated and contends that the State presented no proof to support those allegations at the June 20, 2011 hearing. We do not reach the merits of Ayers's appeal.

Generally, under Arkansas Rules of Appellate Procedure—Criminal 1(a), there is no right to appeal a guilty plea, except for a conditional plea of guilty premised on an appeal of the denial of a suppression motion pursuant to Arkansas Rules of Criminal Procedure 24.3. *Hewitt v. State*, 362 Ark. 369, 370–71, 208 S.W.3d 185, 186 (2005) (per curiam) (citing *Seibs v. State*, 357 Ark. 331, 166 S.W.3d 16 (2004)). There are two other exceptions to the general rule: (1) when there is a challenge to testimony or evidence presented before a jury in a sentencing hearing separate from the plea itself, and (2) when the appeal is an appeal of a posttrial motion challenging the validity and legality of the sentence itself. *Seibs*, 357 Ark. at 334, 166 S.W.3d at 17 (citing *Bradford v. State*, 351 Ark. 394, 399, 94 S.W.3d 904, 907 (2003); *Hill v. State*, 318 Ark. 408, 413, 887 S.W.2d 275, 277 (1994)).

The case at hand does not fall within any of the exceptions to the general rule. Ayers does not contend, and the judgment and commitment order does not reflect, that the guilty plea was entered conditionally. Ayers was not sentenced by a jury. No posttrial motions challenging the validity and legality of the sentence are in the record. Because none of the recognized exceptions apply in this situation, we have no jurisdiction for an appeal. *Hewitt*, 362 Ark. at 371, 208 S.W.3d at 186; *Seibs*, 357 Ark. at 335, 166 S.W.3d at 18. Accordingly, we dismiss the appeal.

Dismissed.

GLADWIN and WYNNE, JJ., agree.