

ARKANSAS COURT OF APPEALS

DIVISION IV

No. CACR12-572

JUSTIN WILLIAMS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered November 14, 2012

APPEAL FROM THE CRITTENDEN
COUNTY CIRCUIT COURT
[NO. CR 2008-375]HONORABLE GRAHAM
PARTLOW, JUDGE

REVERSED AND REMANDED

RITA W. GRUBER, Judge

Appellant, Justin Williams, contends that the Crittenden County Circuit Court erred by revoking his probation without correcting his illegal probationary sentence. He asserts that the illegal sentence and revocation were void and that the circuit court's decision should be reversed. The State concedes that the circuit court erred in revoking probation without correcting the original sentence, but it asserts that the case should be remanded for resentencing. We agree with the State.

A July 20, 2009 judgment and disposition order reflects that Williams entered a negotiated plea of guilty to aggravated residential robbery, a Class Y felony under Ark. Code Ann. section 5-39-204(b) (Supp. 2007), for which he was placed on seventy-two months' probation. On March 18, 2010, the State filed a petition to revoke. The court revoked probation at the conclusion of a revocation hearing and on May 24, 2012, entered an order

sentencing Williams to seventy-two months' imprisonment in the Arkansas Department of Correction.

A person convicted of a Class Y felony shall receive a determinate sentence of not less than ten and not more than forty years, or life. Ark. Code Ann. § 5-4-401(a)(1) (Repl. 2006). Probation is not an authorized disposition for a Class Y felony except to the extent that section 5-4-104(c) (Repl. 2006) allows suspended imposition of *an additional term of imprisonment*. Ark. Code Ann. § 5-4-301(a)(1)(C) (Repl. 2006) (emphasis added).

Williams's underlying sentence of probation was illegal, making his probationary sentence and the revocation proceeding void. *Crouse v. State*, 2012 Ark. App. 58. We reverse and dismiss the revocation, and we remand the case to the circuit court for sentencing as authorized by statute.

Reversed and remanded.

GLADWIN and GLOVER, JJ., agree.

C. Brian Williams, for appellant.

Dustin McDaniel, Att'y Gen., by: *Jake H. Jones*, Ass't Att'y Gen., for appellee.