

ARKANSAS COURT OF APPEALSDIVISION IV
No. CACR12-842

CARLOS D. WILLIAMS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered May 15, 2013

APPEAL FROM THE CRITTENDEN
COUNTY CIRCUIT COURT
[NO. CR-2009-283]HONORABLE JOHN N.
FOGLEMAN, JUDGEREMANDED TO SETTLE AND
SUPPLEMENT THE RECORD;
REBRIEFING ORDERED**RITA W. GRUBER, Judge**

Carlos D. Williams was placed on three years' probation on April 24, 2009, after pleading guilty to theft by receiving. On February 18, 2010, the trial court revoked his probation and entered an order sentencing him to probation for an additional five years. The State filed an amended petition to revoke Williams's probation on May 1, 2012. After a hearing, the court revoked Williams's probation and entered an order on July 16, 2012, sentencing him to ten years' imprisonment. Williams's counsel has filed both a motion to withdraw on grounds that the appeal is without merit and an accompanying brief. Because the record is incomplete and the brief noncompliant, we remand the case to the trial court to settle and supplement the record, and we order rebriefing.

We must have the entire record of proceedings in order to properly review a criminal case presented in a no-merit format. *Campbell v. State*, 74 Ark. App. 280, 53 S.W.3d 48

(2001) (supp. op. on denial of reh'g). If anything material to either party is omitted from the record by error or accident, we may direct that the omission or misstatement be corrected and, if necessary, that a supplemental record be certified and transmitted. Ark. R. App. P.–Civ. 6(e) (made applicable to criminal cases by Ark. R. App. P.–Crim. 4(a)). Here, the record does not contain the order entered on February 18, 2010, extending Williams's probation for an additional five years. It is the sentence from this order of probation that the court revoked in this case. Although the record and addendum do contain the original order entered on April 24, 2009, sentencing Williams to three years' probation, this probation was revoked—and Williams was sentenced to an additional term of probation—in an order entered on February 18, 2010. Because this document is essential to our review of the case, we remand for the record to be settled and supplemented within thirty days. Upon supplementation and filing with our court, the clerk will set a new briefing schedule.

We note on remand that, although counsel has summarized the testimony from the revocation hearing in his brief, he does not state that there is no meritorious ground for reversal or explain why this is so. Indeed, his brief never references Rule 4-3(k) of the Rules of the Arkansas Supreme Court and Court of Appeals, which governs the filing of no-merit appeals. Although his motion to withdraw does state that the appeal is “wholly without merit,” it cites Rule 4-3(j), which governs the preparation of briefs for indigent appellants. Therefore, we also order counsel to submit a brief that is compliant with Rule 4-3(k). We urge counsel to carefully examine the record and review the rules before submitting the supplemental record and brief. *See Honor Williams v. State*, 2013 Ark. App. 323.

Remanded to settle and supplement the record; rebriefing ordered.

GLOVER and VAUGHT, JJ., agree.

C. Brian Williams, for appellant.

No response.