

IN THE UTAH COURT OF APPEALS

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| State of Utah, |) | MEMORANDUM DECISION |
| |) | (Not For Official Publication) |
| Plaintiff and Appellee, |) | Case No. 20070990-CA |
| |) | |
| v. |) | F I L E D |
| |) | (March 19, 2009) |
| James Dale Kerr, |) | |
| |) | 2009 UT App 74 |
| Defendant and Appellant. |) | |

Second District, Ogden Department, 061902981
The Honorable Michael D. Lyon

Attorneys: Randall W. Richards, Ogden, for Appellant
Mark L. Shurtleff and J. Frederic Voros Jr., Salt
Lake City, for Appellee

Before Judges Bench, Davis, and McHugh.

PER CURIAM:

Appellant James Dale Kerr appeals his sentence of one to fifteen years in prison for second-degree sexual abuse of a child.

Kerr's counsel filed a brief in accordance with Anders v. California, 386 U.S. 783 (1967), and State v. Clayton, 639 P.2d 168 (Utah 1981). The brief objectively demonstrates that the issue raised on appeal is frivolous. See State v. Flores, 855 P.2d 258, 260 (Utah Ct. App. 1993) (per curiam); see also Dunn v. Cook, 791 P.2d 873, 877 (Utah 1990) (stating that an Anders brief must demonstrate that any "potentially meritorious" issues are actually frivolous). Based upon our independent examination of the record, we determine that the appeal is, indeed, wholly frivolous.

Accordingly, we affirm the decision of the district court and grant counsel's request to withdraw.

Russell W. Bench, Judge

James Z. Davis, Judge

Carolyn B. McHugh, Judge