

IN THE SUPREME COURT, STATE OF WYOMING

2020 WY 82

April Term, A.D. 2020

June 24, 2020

JOHN A.K. NIAU,

**Appellant
(Defendant),**

v.

THE STATE OF WYOMING,

**Appellee
(Plaintiff).**

S-20-0018

**ORDER AFFIRMING THE DISTRICT COURT’S
“ORDER OF REVOCATION OF PROBATION”**

[¶ 1] **This matter** came before the Court upon its own motion after Appellant filed a *pro se* brief. Appellant took this appeal to challenge the district court’s June 11, 2019, “Order of Revocation of Probation.” Appellant admitted he violated his probation. The district court revoked probation and imposed a sentence of three to five years for Appellant’s conviction on a count of strangulation of a household member. Wyo.Stat. Ann. § 6-2-509. Appellant entered an unconditional “no contest” plea to that charge.

[¶ 2] On April 23, 2020, Appellant’s court-appointed appellate counsel filed a “Motion to Withdraw as Counsel,” pursuant to *Anders v. California*, 386 U.S. 738, 744, 87 S.Ct. 1396, 1400, 18 L.Ed.2d 493 (1967). This Court subsequently entered an “Order Granting Motion for Extension of Time to File *Pro Se* Brief,” which provided that Appellant “may file with this Court a *pro se* brief specifying the issues he would like the Court to consider in this appeal.” This Court also provided notice that, after the time for filing a *pro se* brief expired, this Court would “make its ruling on counsel’s motion to withdraw and, if appropriate, make a final decision” on this appeal. Appellant filed his *pro se* brief on June 5, 2020.

[¶ 3] Now, following a careful review of the record, the “*Anders* brief” submitted by appellate counsel, and Appellant’s *pro se* brief, this Court finds that appellate counsel’s motion to withdraw should be granted and the district court’s “Order of Revocation of Probation” should be affirmed. Regarding the *pro se* brief, this Court notes Appellant’s claims challenge the convictions and initial sentences and not the probation revocation. This Court notes Appellant could have challenged his convictions and initial sentences in his direct appeal. See S-16-0146. It is, therefore,

[¶ 4] **ORDERED** that the Wyoming Public Defender’s Office, court-appointed counsel for Appellant John A.K. Niau, is hereby permitted to withdraw as counsel of record for Appellant; and it is further

[¶ 5] **ORDERED** that the Sweetwater County District Court’s June 11, 2019, “Order of Revocation of Probation,” be, and the same hereby is, affirmed.

[¶ 6] **DATED** this 24th day of June, 2020.

BY THE COURT:

/s/

MICHAEL K. DAVIS
Chief Justice