

ARKANSAS COURT OF APPEALS

DIVISION III
No. CACR09-763

TRENT RICHARDSON

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered December 2, 2009

APPEAL FROM THE FAULKNER
COUNTY CIRCUIT COURT
[NOS. CR-1999-540 & CR-2000-389]

HONORABLE CHARLES E.
CLAWSON, JR., JUDGE

AFFIRMED; MOTION TO
WITHDRAW GRANTED

WAYMOND M. BROWN, Judge

On March 13, 2009, a Faulkner County judge found that Trent Richardson violated the terms and conditions of his probation and sentenced him to an eighteen-month term in a regional punishment facility, followed by twenty-four months' suspended imposition of sentence. Richardson's attorney has filed a motion to withdraw as counsel. The motion was accompanied by a no-merit brief, pursuant to *Anders v. California*, 386 U.S. 738 (1967), and Ark. Sup. Ct. R. 4-3(k), wherein counsel contends that all rulings adverse to his client are abstracted and discussed. Richardson has filed no pro se points in response. After reviewing the record, we agree that an appeal in this case would be wholly without merit. Accordingly, we affirm the revocation of Richardson's probation and grant counsel's motion to withdraw.

Richardson was placed on seven years' probation after pleading guilty to two counts of

possession of cocaine and one count of possession of drug paraphernalia. Months before the expiration of the probation, the State filed a motion to revoke, alleging that Richardson had violated the law and had failed to abstain from alcohol. The State's proof shows that a University of Central Arkansas police officer responded to a fight at a local bar on December 3, 2008. The officer found Richardson in a car at a nearby car wash. Richardson was argumentative, had watery and bloodshot eyes, and smelled of intoxicants. The officer returned Richardson to the bar, and Richardson started fighting again. Other officers were able to stop the fight, and upon learning Richardson's name, they arrested him on a DWI warrant. Richardson was charged with and eventually convicted of public intoxication, driving on a suspended license, not using a seatbelt, disorderly conduct, failure to pay registration fees, and having no insurance. After hearing the evidence, the court found that Richardson had failed to comply with the terms and conditions of his probation.

An attorney's request to withdraw from appellate representation based on a meritless appeal must be accompanied by a brief that contains a list of all rulings adverse to his client made on any objection, motion, or request made by either party. *Eads v. State*, 74 Ark. App. 363, 47 S.W.3d 918 (2001). The argument section of the brief must contain an explanation of why each adverse ruling is not a meritorious ground for reversal. *Id.* This court is bound to perform a full examination of the proceedings as a whole to decide if an appeal would be wholly frivolous. *Campbell v. State*, 74 Ark. App. 277, 47 S.W.3d 915 (2001). If counsel fails to address all possible grounds for reversal, this court can deny the motion to withdraw and order

rebriefing. *Sweeney v. State*, 69 Ark. App. 7, 9 S.W.3d 529 (2000).

The record contains only one adverse ruling: the decision to revoke Richardson's probation. A sentence of probation may be revoked when a court finds by a preponderance of the evidence that the defendant has inexcusably failed to comply with a condition of his probation. Ark. Code Ann. § 5-4-309(d) (Repl. 2006); *Williams v. State*, 351 Ark. 229, 91 S.W.3d 68 (2002). As argued by counsel, an appeal in this case would be wholly without merit. The State alleged that Richardson violated the terms and conditions of his probation by violating the law and consuming alcohol. The arrest and conviction for public intoxication and disorderly conduct, and accompanying facts, are more than sufficient to support the revocation.

Richardson's attorney has complied with the dictates of *Anders* and Ark. Sup. Ct. R. 4-3(k). Accordingly, we affirm the revocation of Richardson's probation and grant counsel's motion to withdraw.

Affirmed; motion to withdraw granted.

GLADWIN and GLOVER, JJ., agree.

Stephen D. Ralph, for appellant.

No response.