

ARKANSAS COURT OF APPEALS

DIVISION III

No. CACR08-374

GARY W. BANKS,

APPELLANT

V.

STATE OF ARKANSAS,

APPELLEE

Opinion Delivered 14 JANUARY 2009

APPEAL FROM THE MILLER
COUNTY CIRCUIT COURT,
[NO. CR-2007-199-3]

THE HONORABLE KIRK
JOHNSON, JUDGE

AFFIRMED; MOTION TO
WITHDRAW GRANTED

D.P. MARSHALL JR., Judge

A Miller County jury convicted Gary Banks of possession of a firearm by a certain person, and he was sentenced to twelve years in prison. Banks's counsel has filed a no-merit brief and a motion to withdraw pursuant to *Anders v. California*, 386 U.S. 738 (1967) and our Rule 4-3(j)(1). Banks filed no *pro se* points on appeal.

Banks's lawyer discussed only one adverse ruling in his brief—the court's denial of Banks's motion for a directed verdict. After examining the entire record, we agree that this was the only adverse ruling made during the trial. *Walton v. State*, 94 Ark. App. 229, 231, 228 S.W.3d 524, 525 (2006). We also agree with Banks's lawyer that an appeal on the merits would be wholly frivolous. *Campbell v. State*, 74 Ark. App. 277, 279–80, 47 S.W.3d 915, 917 (2001). We therefore affirm Banks's conviction and

grant his lawyer's motion to withdraw.

Banks's lawyer moved for a directed verdict at the proper times during the trial. But a motion for a directed verdict must "specify the respect in which the evidence is deficient." Ark. R. Crim. P. 33.1(c). At the close of the State's proof, Banks's lawyer said "Your Honor, we would move for a directed verdict at this time, and we will not, we will just state that the State has not presented evidence to maintain their burden of proof in this matter." Then, at the close of all the proof, Banks's lawyer renewed his previous motion. "A general motion that merely asserts that the State has failed to prove its case is inadequate to preserve the issue for appeal." *Davis v. State*, 97 Ark. App. 6, 9, 242 S.W.3d 630, 633 (2006). Thus, even if we had concluded that there might be merit in a sufficiency challenge, we could not address it because the challenge was not preserved for appeal.

Affirmed; motion to withdraw granted.

VAUGHT, C.J., and GLOVER, J., agree.