

ARKANSAS COURT OF APPEALS

DIVISION I
No. CACR08-418

ANTONIO HERMAN

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered January 14, 2009

APPEAL FROM THE DREW
COUNTY CIRCUIT COURT
[NO. CR-03-114-3]

HONORABLE ROBERT BYNUM
GIBSON, JR., JUDGE

AFFIRMED; MOTION TO
WITHDRAW GRANTED

JOHN MAUZY PITTMAN, Judge

Antonio Herman pled guilty in 2003 to delivery of a controlled substance, a Class Y felony. He was fined and placed on supervised probation, subject to various conditions, for a period of ten years. In 2006, the State filed a petition to revoke appellant's probation on grounds that he had violated several of its conditions. After a hearing, the trial court found that appellant had violated the conditions of his release by failing to report a change of address, failing to report to his probation officer, failing to pay his fine, and failing to pay court costs. The court revoked appellant's probation and sentenced him to fifteen years in the Arkansas Department of Correction.

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), and Ark. Sup. Ct. R. 4-3(j), appellant's counsel has filed a motion to withdraw on grounds that the appeal is wholly without merit. The motion is accompanied by an abstract and addendum of the proceedings

below, including all objections and motions decided adversely to appellant, and a brief in which counsel explains why there is nothing in the record that would support an appeal. The clerk of this court provided appellant with a copy of his counsel's brief and notified him of his right to file a pro se statement of points for reversal within thirty days. Appellant filed such a statement, but his points all present issues that either were not preserved for appeal by objection below and cannot be raised for the first time on appeal (ineffective assistance of counsel); were raised to the trial court for the first time more than thirty days after entry of judgment and after the only notice of appeal in the case, and, therefore, are not cognizable in this appeal (alleged harshness of the sentence, which is legal on its face); or are adequately covered in his counsel's brief (sufficiency of the evidence). The State has filed a brief in which it concurs that appellant's appeal is without merit.

From our review of the record and the briefs presented to us, we find compliance with Rule 4-3(j) and that the appeal is wholly without merit. Accordingly, counsel's motion to withdraw is granted, and the order of revocation is affirmed.

GLADWIN and GLOVER, JJ., agree.