

ARKANSAS COURT OF APPEALS

DIVISION I
No. CACR10-202

JOHNNY ALFRED MINGO, JR.
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered MAY 25, 2011

APPEAL FROM THE SEBASTIAN
COUNTY CIRCUIT COURT,
FORT SMITH DISTRICT
[NO. MC-2009-153]

HONORABLE STEPHEN TABOR,
JUDGE

AFFIRMED; MOTION TO
WITHDRAW GRANTED

ROBERT J. GLADWIN, Judge

This is the second attempt at a no-merit appeal from the revocation of appellant Johnny Mingo, Jr.'s suspended imposition of sentence in a Sebastian County Circuit Court, for which he was sentenced to one year in the county jail with three months suspended. On January 19, 2011, we issued an opinion in which the court denied Mingo's counsel's motion to withdraw, remanded the appeal, and ordered rebriefing because of omissions in counsel's brief in violation of Rule 4-2(a)(5) (2011) of the Rules of the Arkansas Supreme Court and Court of Appeals. *See Mingo v. State*, 2011 Ark. App. 33.

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), and Rule 4-3(k) (2011) of the Rules of the Arkansas Supreme Court and Court of Appeals, Mingo's counsel has filed a

second motion to withdraw on the grounds that the appeal is without merit. Counsel's motion was accompanied by a brief referring to everything in the record that might arguably support an appeal, including a list of all rulings adverse to Mingo made by the trial court on all objections, motions, and requests made by either party with an explanation as to why each adverse ruling is not a meritorious ground for reversal.

The clerk of this court furnished Mingo with a copy of his counsel's brief and notified him of his right to file pro se points. Appellant filed such a statement, solely asserting ineffective assistance of counsel. A claim of ineffective assistance of counsel is appropriate on direct appeal only when it is raised before the trial court and the facts and circumstances surrounding the claim have been fully developed at the trial level. *Rounsaville v. State*, 374 Ark. 356, 288 S.W.3d 213 (2008). No claim of ineffective assistance was raised below; accordingly, this issue does not present a meritorious point for appeal. The State filed a brief in which it concurs that there is no merit to the appeal.

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

Affirmed; motion to withdraw granted.

HART and ABRAMSON, JJ., agree.