

ARKANSAS COURT OF APPEALS

DIVISION III
No. CACR10-935

CHARLES DAVIS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered June 15, 2011

APPEAL FROM THE MISSISSIPPI
COUNTY CIRCUIT COURT
[NO. CR-2007-242]

HONORABLE DAVID N. LASER,
JUDGE

MOTION TO WITHDRAW DENIED
WITHOUT PREJUDICE;
REBRIEFING ORDERED

JOHN MAUZY PITTMAN, Judge

Appellant, Charles Davis, pled guilty to delivery of cocaine in August 2008 and was placed on probation for a period of five years. The State filed a petition to revoke appellant's probation in March 2010. After a hearing, appellant was found to have violated the conditions of his probation and was sentenced to five years' imprisonment. This appeal followed.

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), and Rule 4-3(k) of the Rules of the Arkansas Supreme Court and Court of Appeals, appellant's attorney has filed a motion to withdraw as counsel on the ground that the appeal is wholly without merit. We must deny the motion at this time. On page 4 of his abstract, appellant's attorney informs us that he objected below to the admission of evidence that appellant had been in the company of a man named John Johnson, who assertedly was a convicted felon. According to the abstract,

appellant objected on the ground that the revocation petition contained no allegation that appellant had been with Johnson. While our review of the transcript shows that appellant's objection at the hearing was neither as clear nor as straightforward as his attorney's summary in his abstract, it does appear that an objection was made concerning the contents of the revocation petition. However, appellant's attorney has failed to discuss this procedural issue in his *Anders* brief, which in this regard discusses instead only the sufficiency of the evidence to support the finding that appellant had consorted with a convicted felon.

Our supreme court has expressly held that a no-merit brief in a criminal case that fails to address an adverse ruling does not satisfy the requirements of Rule 4-3(k)(1) and that the case must be rebriefed. *Sartin v. State*, 2010 Ark. 16. Therefore, we order counsel to file a substituted abstract, brief, and addendum that complies with the rule within thirty days from the date of this opinion.

Motion to withdraw denied without prejudice; rebriefing ordered.

VAUGHT, C.J., and WYNNE, J., agree.