

# ARKANSAS COURT OF APPEALS

DIVISION III  
No. CACR11-322

KEVIN KYLE CROUSE

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

**Opinion Delivered** January 18, 2012

APPEAL FROM THE CRITTENDEN  
COUNTY CIRCUIT COURT  
[NO. CR2010-79]

HONORABLE JOHN N.  
FOGLEMAN, JUDGE

MOTION TO BE RELIEVED  
DENIED; REVERSED AND  
REMANDED

---

**JOSEPHINE LINKER HART, Judge**

After a hearing, on November 2, 2010, the Crittenden County Circuit Court revoked Kevin Kyle Crouse's probation and sentenced him to 144 months in the Arkansas Department of Correction. Crouse had been placed on 60 months' probation on February 19, 2010, in exchange for his guilty plea to possession of narcotics with intent to deliver, a Class Y felony. He also received 60 months' suspended imposition of sentence when he pled guilty to possession of drug paraphernalia with intent to use, a Class B felony.

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), and Arkansas Supreme Court Rule 4-3(k), Crouse's counsel filed a motion to withdraw on the ground that the appeal is wholly without merit. The clerk of this court sent Crouse a certified copy of his counsel's brief and motion to be relieved and informed him that he had the right to file pro se points for reversal. Crouse did not avail himself of his right to file pro se points. Upon review of the record, however, we determined that this case must be reversed and remanded.



Cite as 2012 Ark. App. 58

Probation is not an authorized disposition for a Class Y felony, so Crouse's underlying sentence of probation is illegal. Ark. Code Ann. § 5-4-104 (Supp. 2011); *see Wade v. State*, 2011 Ark. App. 464. The issue of whether the appellant received an illegal sentence goes to subject-matter jurisdiction, and we may review the issue whether or not an objection was made in the circuit court. *Ritchie v. State*, 2009 Ark. App. 522, 337 S.W.3d 529. A sentence is void or illegal when the court lacks authority to impose it. *Id.* Accordingly, we reverse and remand this case for further proceedings consistent with this opinion.

Motion to be relieved denied; reversed and remanded.

ROBBINS and ABRAMSON, JJ., agree.

*C. Brian Williams*, for appellant.