

ARKANSAS COURT OF APPEALS

DIVISION III
No. CACR 11-744

BARRY DARNELL RAIFORD
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered June 27, 2012

APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT,
SEVENTH DIVISION
[NO. CR-10-470]

HONORABLE BARRY A. SIMS,
JUDGE

APPEAL DISMISSED;
MOTION GRANTED

JOHN B. ROBBINS, Judge

Appellant Barry Darnell Raiford entered a no-contest plea in Pulaski County Circuit Court to the crimes of kidnaping, robbery, theft of property, and criminal mischief. An accompanying misdemeanor battery conviction merged into the more serious offenses. These charges stemmed from a car-jacking incident on January 9, 2010. Raiford admitted to striking Whitney Moore, stealing her vehicle in which her infant was secured in a car seat, wrecking the vehicle a short distance away, and fleeing the scene. Raiford expressed understanding of the possible range of sentences, and he assured the trial court that he was not coerced or induced to enter into this plea. A written plea statement signed by appellant and his attorney was entered into evidence, which explained the rights appellant was waiving by pleading no contest. After a sentencing hearing, in which there were no objections raised,



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Raiford was sentenced to serve a total of twenty years of imprisonment. Appellant’s attorney filed a timely notice of appeal, followed by a no-merit brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), and Ark. Sup. Ct. R. 4-3(k) (2011), along with a motion to be relieved as counsel, asserting that there is no issue of arguable merit in an appeal of these convictions. Because appellant has no right to appeal from this no-contest plea, we lack jurisdiction and dismiss the appeal.

A request to withdraw on the ground that the appeal is wholly without merit shall be accompanied by a brief, including an argument section that consists of a list of all rulings adverse to the defendant made by the circuit 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. Ark. Sup. Ct. R. 4-3(k)(1); *Eads v. State*, 74 Ark. App. 363, 47 S.W.3d 918 (2001); *Campbell v. State*, 74 Ark. App. 277, 279, 47 S.W.3d 915, 917 (2001). Appellant was provided a copy of the motion and brief at his place of imprisonment. Appellant filed a one-page pro se response, to which the State filed a responsive brief. In it, appellant explains the circumstances that led to him stealing this vehicle, insisting that he did not know a child was in the car because “I am not that kind of person.” He does not challenge the voluntariness of his plea, the legality of his sentence, or the effectiveness of his counsel.

In the no-merit brief, appellant’s attorney accurately explains that appellant has no right to appeal from his no-contest plea. He did not enter a conditional guilty plea, nor did he challenge evidence presented in the sentencing hearing or file a posttrial motion challenging



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the legality or validity of his sentence, each of which might trigger an exception to that general rule. Ark. R. Crim. P. 24.3(b); *Johnson v. State*, 2010 Ark. 63; *Seibs v. State*, 357 Ark. 331, 166 S.W.3d 16 (2004). In this instance, we acquire no appellate jurisdiction to hear an appeal. See *Tabor v. State*, 326 Ark. 51, 930 S.W.2d 319 (1996); *Smalley v. State*, 2012 Ark. App. 221.

We dismiss due to lack of jurisdiction to entertain an appeal of this no-contest plea. Appellant's attorney's motion to be relieved is granted.

Appeal dismissed; motion granted.

VAUGHT, C.J., and ABRAMSON, J., agree.

William R. Simpson, Jr., Pub. Def., by: *Margaret Egan*, Deputy Pub. Def., for appellant.

Dustin McDaniel, Att'y Gen., by: *LeaAnn J. Irvin*, Ass't Att'y Gen., for appellee.