

## ARKANSAS COURT OF APPEALS

DIVISION III  
No. CACR12-619

TAWANA WARREN

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered January 23, 2013

APPEAL FROM THE CRITTENDEN  
COUNTY CIRCUIT COURT  
[NO. CR-2010-359]

HONORABLE RALPH WILSON, JR.,  
JUDGE

AFFIRMED; MOTION GRANTED

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### LARRY D. VAUGHT, Judge

On May 14, 2012, the Crittenden County Circuit Court entered an order finding appellant Tawana Warren in willful violation of her probation and sentenced her to five years' imprisonment. 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, Warren's counsel has filed a no-merit brief and a motion to withdraw on the ground that an appeal is without merit. Warren was provided with a copy of her counsel's brief and notified of her right to file a pro se statement of additional points on appeal within thirty days. She has not filed a statement. As a result, the State has not filed a brief. We affirm the trial court's order revoking Warren's probation and grant counsel's motion to withdraw.

On July 2, 2010, Warren pled guilty to theft of property, a Class B felony, and was placed on probation for seven years. Among the conditions of her probation were the requirements that she pay restitution of \$3000 in monthly payments beginning August 5,



2010; pay fines, court costs, and fees of \$1020, pay probation-supervision fees; report to her probation officer; work faithfully at suitable employment; report her current address and place of employment to her probation officer; obtain a GED; and not move or remain out of the jurisdiction of the court. On June 6, 2011, the State filed a petition to revoke Warren's probation, alleging that she violated the terms of her probation by (1) failing to pay fines, costs, restitution, and fees; (2) failing to report to her probation officer; (3) failing to pay probation fees; (4) failing to notify the sheriff and her probation officer of her current address and employment; (5) failing to work regularly at suitable employment; (6) departing from an approved residence without probation approval; and (7) failing to obtain her GED.

At an October 4, 2011 probation hearing, the State produced testimony that Warren had paid only \$15 toward the restitution she was ordered to pay. Warren's probation officer testified that Warren had failed to report since March 7, 2011, failed to report employment, and was behind in paying her probation-supervision fees. At the hearing, Warren conceded that she had not reported to her probation officer, had not made payments on her financial obligations, had not obtained a GED, and had not worked because she was too busy taking care of one of her children who was ill.

At the conclusion of the hearing, the trial court revoked Warren's probation, finding that she failed to pay fines, costs, and restitution; failed to report to her probation officer; failed to pay probation fees; and failed to obtain her GED. The trial court deferred sentencing until February 10, 2012, to give Warren the chance to demonstrate compliance with her probation terms and conditions. However, Warren failed to appear at the February 10, 2012 hearing.



A bench warrant was issued, and Warren was later arrested. She appeared before the trial court on April 24, 2012, at which time the State presented new evidence that since the October 2011 revocation hearing, Warren had not made payments on her financial obligations, she had not attended GED classes, and she had not reported since November 7, 2011. In response, Warren testified that she was living in Tennessee on February 10, 2012, and did not have transportation. She stated that she was cleaning houses and was “getting ready to pay my fines and stuff.” She added, “I’m sorry it took so long for me to do anything and I just couldn’t do it right then and there.” The trial court restated the revocation findings that it made at the October 2011 hearing, noting that at that time it had given Warren “a break” by deferring sentencing. Finding that Warren did not take advantage of the opportunity, the trial court sentenced her to five years’ imprisonment. This appeal followed.

In Warren’s counsel’s no-merit brief and motion to withdraw, he argues that there would be no merit to an appeal in the case. A motion of this type must be accompanied by an abstract and brief listing and discussing all rulings adverse to the appellant and explaining why there would be no merit to an appeal. Ark. Sup. Ct. R. 4-3(k) (2011).

The only ruling at the revocation hearing that was adverse to Warren was the trial court’s revocation decision. We agree with counsel that there would be no merit to a challenge to the revocation decision. The conditions of probation required Warren to report to her probation officer; attend class and obtain a GED; and pay restitution along with court costs, fees, fines, and probation-supervision fees. The State presented evidence that Warren did not do these things, and Warren conceded these points at the hearings. Although Warren



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offered excuses for her failures, it is the province of the fact-finder to determine the credibility of witnesses and the weight to be given to their testimony. *Nelson v. State*, 344 Ark. 407, 39 S.W.3d 791 (2001). Accordingly, we hold that counsel has complied with the requirements of *Anders* and Rule 4-3(k). The judgment of the trial court is affirmed, and the motion to withdraw is granted.

Affirmed; motion granted.

GLOVER and WHITEAKER, JJ., agree.

*C. Brian Williams*, for appellant.

No response.