

# ARKANSAS COURT OF APPEALS

DIVISION III  
No. CACR12-234

EUGENE THOMAS III

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered May 15, 2013

APPEAL FROM THE CHICOT  
COUNTY CIRCUIT COURT  
[NO. CR-10-154-4B]

HONORABLE DON GLOVER,  
JUDGE

AFFIRMED; MOTION TO  
WITHDRAW GRANTED

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## BILL H. WALMSLEY, Judge

Appellant Eugene Thomas III appeals his convictions and sentences for aggravated robbery and theft of property. Appellant's counsel has filed a motion to withdraw and a no-merit brief 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. Our clerk provided appellant with a copy of counsel's brief and motion as required by Rule 4-3(k), and appellant submitted pro se points for reversal. We affirm the sentences and grant the motion to withdraw.

Appellant pled guilty to aggravated robbery and theft of property, and the issue of sentencing was submitted to a jury. Generally, under Rule 1(a) of the Arkansas Rules of Appellate Procedure—Criminal, there is no right to appeal from a guilty plea, except for a conditional plea of guilty premised on an appeal of the denial of a suppression motion pursuant to Arkansas Rule of Criminal Procedure 24.3. *Hewitt v. State*, 362 Ark. 369, 208



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S.W.3d 185 (2005). However, our supreme court has recognized two other exceptions to the general rule: (1) when there is a challenge to testimony or evidence presented before a jury in a sentencing hearing separate from the plea itself and (2) when the appeal is an appeal of a posttrial motion challenging the validity and legality of the sentence itself. *Id.*

Here, as there was a separate sentencing hearing after appellant pled guilty, an appeal challenging the evidence presented in that hearing can be heard. Counsel has abstracted and addressed in his argument eight potentially adverse rulings, including the ruling addressed in appellant's pro se points. From our review of the record and the brief presented to us, we find that counsel has complied with the requirements of Rule 4-3(k), and we hold that there is no merit to this appeal.

Affirmed; motion to withdraw granted.

PITTMAN and WOOD, JJ., agree.

*Joseph P. Mazzanti, III*, for appellant.

*Dustin McDaniel*, Att'y Gen., by: *Jake H. Jones*, Ass't Att'y Gen., for appellee.