

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CR-12-981

RICHARD J. JACKSON

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered November 20, 2013

APPEAL FROM THE CLARK
COUNTY CIRCUIT COURT
[NO. CR-2012-3]

HONORABLE ROBERT
MCCALLUM, JUDGE

AFFIRMED; MOTION GRANTED;
REMANDED WITH
INSTRUCTIONS

RITA W. GRUBER, Judge

Richard J. Jackson pleaded guilty to robbery, kidnapping, and two counts of theft of property. In a jury trial, he was sentenced as a habitual offender to consecutive sentences totaling ninety years' imprisonment. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), and as allowed by Rule 4-3(k)(1) (2013) of the Rules of the Arkansas Supreme Court and Court of Appeals, Jackson's counsel has filed a no-merit brief and a motion to withdraw on the ground that an appeal in this matter would be wholly without merit. Jackson has filed points for reversal, and the State has responded to those points.

There generally is no right to an appeal from a plea of guilty, but the appeal will be entertained if it raises only an issue of sentencing and requires no review of the plea itself. *Bailey v. State*, 348 Ark. 524, 74 S.W.3d 622 (2002); *see also Johnson v. State*, 2010 Ark. 63 (permitting an appeal that alleges evidentiary errors arising after the plea and during the

sentencing phase).

In his pro se points, Jackson asserts several claims of ineffective assistance of counsel: among his complaints are that counsel entered into evidence “a letter from an inmate in the jail,” using against Jackson the disadvantage of his 60 IQ and inability to read or write, and that counsel objected only once during sentencing. Jackson asserts that counsel and the prosecutor violated his due-process rights in various ways and brought up his past and previous record to the jury. He asserts several errors by the trial judge and asserts that counsel, the prosecutor, and the judge were “all in this together” to give him ninety years. We agree with the State that Jackson’s points are waived for appeal because they were not raised below or that they are otherwise meritless.¹

Counsel notes that there were no adverse rulings to Jackson during sentencing—counsel’s sole objection to a witness’s testimony having been decided in his favor—and that we are not free to reduce the sentence because it was neither an abuse of discretion nor an illegal sentence. See *Cline v. State*, 2011 Ark. App. 315. From our review of the record and from counsel’s brief, we hold that the requirements of Arkansas Supreme Court Rule 4-3(k)(1) (2013) and *Anders v. California*, *supra*, have been met and that the appeal has no merit.

We remand to the circuit court, however, for correction of the sentencing order. First,

¹The State correctly explains that points concerning matters before Jackson pleaded guilty were waived by entry of his plea, that the letter about which he complains does not appear in the evidence, that he has not specified what objections counsel should have made, and that his record as a habitual offender was properly disclosed to the jury.

it fails to reflect Jackson’s guilty pleas. Furthermore, check marks improperly reflect that Jackson “was found guilty by the court & sentenced by jury,” and a third check mark indicates jury sentencing when guilt has been pronounced at a jury trial. Additionally, although the form shows that the two theft-of-property offenses were committed on June 24, 2010, check marks classify them as Class D felonies—which was not the classification of those offenses at the time. The form is to be corrected in its entirety; our observations are not to be taken as a list excluding other possible errors or oversights.

Affirmed; motion granted; remanded with instructions.

GLADWIN, C.J., and WALMSLEY, J., agree.

Holthoff & Richards, LLP, by: *Amos J. Richards*, for appellant.

Dustin McDaniel, Att’y Gen., by: *Pamela A. Rumpz*, Ass’t Att’y Gen., for appellee.