

ARKANSAS COURT OF APPEALS

DIVISION II

No. CR-13-1086

JUSTIN B. ALBERSON

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered June 18, 2014

APPEAL FROM THE HEMPSTEAD
COUNTY CIRCUIT COURT
[NOS. CR-2011-173-1; CR-2010-382-1;
CR-2011-20-1]

HONORABLE WM. RANDALL
WRIGHT, JUDGE

AFFIRMED; MOTION TO
WITHDRAW GRANTED

ROBERT J. GLADWIN, Chief Judge

This is a no-merit appeal on the revocation of appellant Justin Alberson's probation by the Hempstead County Circuit Court for his failure to abide by the conditions of his probation. Appellant's counsel filed a motion to withdraw and a no-merit brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and Ark. Sup. Ct. R. 4-3(k) (2013). Appellant was provided a copy of the motion and brief by mail and was notified of his right to file pro se points for reversal. Appellant did not file any pro se points; thus, the State elected not to file a responsive brief. We grant counsel's motion to withdraw and affirm the revocation.

Appellant was charged and convicted in three separate cases of forgery, possession of methamphetamine, furnishing prohibited articles, and possession of drug paraphernalia. He was sentenced to probation in each case, was revoked in each case, and sentenced to probation in each case a second time. After a high-speed chase, police found methamphetamine in

appellant's car and charged him with possession. A revocation petition was filed, and, after a hearing wherein appellant admitted to committing the crime of felony fleeing, the trial court found appellant guilty of violating the conditions of his probation by continuing to take drugs, associating with a convicted felon, and failing to report. Appellant was sentenced to thirty years' imprisonment, and this appeal timely followed.

The test for filing a no-merit brief is not whether there is any reversible error, but whether an appeal would be wholly frivolous. *Tucker v. State*, 47 Ark. App. 96, 885 S.W.2d 904 (1994). Based on our review of the record for potential error pursuant to *Anders* and the requirements of Rule 4-3(k), we hold that the appellant's appeal is wholly without merit. Therefore, pursuant to sections (a) and (b) of *In re Memorandum Opinions*, 16 Ark. App. 301, 700 S.W.2d 63 (1985), we issue this memorandum opinion granting counsel's motion to be relieved and affirming the court's judgment.

Affirmed; motion to withdraw granted.

PITTMAN and WHITEAKER, JJ., agree.

Anthony S. Biddle, for appellant.

No response.