

ARKANSAS COURT OF APPEALS

DIVISION I
No. CR-13-491

NICHOLAS BURRIS

APPELLANT

Opinion Delivered October 1, 2014

APPEAL FROM THE UNION
COUNTY CIRCUIT COURT
[NO. CR-12-395]

V.

HONORABLE HAMILTON H.
SINGLETON, JUDGE

STATE OF ARKANSAS

APPELLEE

MOTION TO WITHDRAW DENIED
WITHOUT PREJUDICE;
REBRIEFING ORDERED

PHILLIP T. WHITEAKER, Judge

Appellant Nicholas Burris was convicted by a Union County jury of one count of rape and one count of residential burglary. He was sentenced to a total of thirty-five years' imprisonment for the two convictions. 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, Burris's attorney has filed a motion to withdraw as counsel on the ground that the appeal is wholly without merit. The motion is accompanied by an abstract, brief, and addendum purporting to list all adverse rulings and to explain why each adverse ruling is not a meritorious ground for reversal. Burris was provided a copy of counsel's brief and notified of his right to file a

list of points within thirty days; he has elected to file pro se points, and the State has filed a responsive brief.

We previously ordered rebriefing in this case because the record did not contain a transcript of voir dire. *Burris v. State*, 2014 Ark. App. 37. That deficiency has been corrected, but we must again deny Burris's counsel's motion to withdraw because counsel has failed to submit an abstract and addendum that complies with the requirements of the Rules of the Arkansas Supreme Court and Court of Appeals. The abstract we have been provided reflects that a CD containing an interview with Burris was played in open court. In addition, a transcript of that interview was introduced into evidence and handed out to the jury to read along as the recording was played. The text of the transcript has not been abstracted, and there is no copy of the CD in the addendum. *See* Ark. Sup. Ct. R. 4-2(a)(8)(A)(i); *Copeland v. State*, 2013 Ark. App. 6.

Pursuant to Rule 4-2(b)(3), we afford Burris's counsel an opportunity to cure these deficiencies. Counsel is directed to file a substituted abstract, brief, and addendum within fifteen days from the date of this opinion.

Motion to withdraw denied without prejudice; rebriefing ordered.

GRUBER and VAUGHT, JJ., agree.

N. Mark Klappenbach, for appellant.

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