

ARKANSAS COURT OF APPEALS

DIVISION II
No. CR-14-634

CHRISTOPHER CLEMONS
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

OPINION DELIVERED JANUARY 14, 2015

APPEAL FROM THE GRANT
COUNTY CIRCUIT COURT
[NO. 27CR-2012-48-1]

HONORABLE CHRIS E WILLIAMS,
JUDGE

AFFIRMED; MOTION TO
WITHDRAW GRANTED

ROBERT J. GLADWIN, Chief Judge

In this no-merit appeal, appellant Christopher Clemons's probation was revoked on March 28, 2014, by the Grant County Circuit Court, and he was sentenced to twenty years' imprisonment pursuant to his prior theft conviction. He filed a timely notice of appeal, and 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 Arkansas Supreme Court Rule 4-3(k)(1) (2013). Appellant was furnished a copy of his counsel's brief and notified that he had thirty days to file pro se points for reversal. Appellant did not file any pro se points; accordingly, the State did not file a responsive brief. We grant counsel's motion to withdraw and affirm the revocation.

Appellant was charged and convicted on April 15, 2013, of theft of property, a Class B felony, pursuant to a plea agreement subjecting him to twenty years' probation and conditions, including that he would not commit a criminal offense punishable by

imprisonment, that he would report to his supervising officer, and that he would pay his fees, costs, fines, and restitution. The State filed a petition to revoke on June 26, 2013, alleging that appellant had failed to pay his supervision fees, restitution, and fines. On March 21, 2014, an amended report of probation violations was filed, adding to the allegations that appellant had been found in possession of drug paraphernalia and a gun, had failed to report to his supervising officer since April 19, 2013, and had not provided proof of employment.

At the revocation hearing, appellant's probation officer testified that appellant had been found in possession of drug paraphernalia and a gun on March 13, 2014; had not reported since April 19, 2013; had not provided proof of his employment; had not made a payment on his supervision fees or his restitution; and was delinquent \$520 in fines. Appellant testified that his probation officer did not help him get a job, and he denied that the gun and drug paraphernalia were his. The circuit court found that appellant had willfully violated the conditions listed in the amended revocation petition, except the State did not prove that appellant willfully failed to provide proof of his employment. Appellant was sentenced to twenty years' imprisonment, still owing \$99,105 in restitution, and \$385 for supervision fees, court costs and fines. Appellant filed a timely notice of appeal, and counsel filed a motion to withdraw on August 28, 2014.

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, supra*, and the requirements of Rule 4-3(k), we hold that appellant's appeal is wholly without merit.

Cite as 2015 Ark. App. 2

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.

WHITEAKER and HIXSON, JJ., agree.

Philip C. Wilson, for appellant.

No response.