

ARKANSAS COURT OF APPEALS

DIVISION I
No. CACR09-1361

WILLIE WELLS, III

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered JANUARY 12, 2011

APPEAL FROM THE CRITTENDEN
COUNTY CIRCUIT COURT
[NO. CR2008-1233]

HONORABLE RANDY F.
PHILHOURS, JUDGE

AFFIRMED; MOTION TO
WITHDRAW GRANTED

RAYMOND R. ABRAMSON, Judge

Willie Wells, III, pleaded guilty to witness bribery in February 2009. The circuit court sentenced him to twenty-four months' probation and ordered him to pay just over \$1000 in fines, costs, and fees. Wells was to pay \$50 a month on this obligation beginning in April 2009. The State filed a petition to revoke Wells's probation in July 2009 and amended its petition about a month later. The State alleged that Wells had 1) failed to pay his fines, costs, and fees; 2) failed to report to his probation officer; 3) failed to pay his probation supervision fees; 4) failed to notify the sheriff of his current address and employment; 5) committed second-degree battery; and 6) committed the offense of fleeing. After a hearing, the circuit court revoked Wells's probation, sentenced him to sixty months' imprisonment, and ordered him to pay \$1020 in restitution. Wells, acting *pro se*, filed various motions both before and

after the revocation hearing, which the circuit court denied. Wells's counsel has filed a no-merit brief pursuant to *Anders v. California*, 386 U.S. 738 (1967) and moves to withdraw. In response, Wells has filed *pro se* points for reversal. We affirm and grant counsel's motion.

Under Rule 4-3(k)(1) of the Rules of the Arkansas Supreme Court and Court of Appeals, a motion to be relieved as counsel based on counsel's belief that the appeal is wholly without merit must be accompanied by a brief. The brief's argument section must contain a list of each adverse ruling and explain why none provide a meritorious ground for reversal. Ark. Sup. Ct. R. 4-3(k)(1). The brief's abstract and addendum, in addition to covering all the material parts of the record, must also contain each adverse ruling. Ark. Sup. Ct. R. 4-3(k)(1). Appellant's counsel must follow the appropriate procedure in these cases as "[t]his framework is a method of ensuring that indigents are afforded their constitutional rights." *Caldwell v. State*, 2009 Ark. App. 526, at 2, 334 S.W.3d 82, 83.

Here, Wells's counsel's brief complies with Rule 4-3(k)(1). And after carefully reviewing the record, we agree with Wells's counsel's conclusion: there are no issues of arguable merit on appeal. The circuit court's finding that Wells violated at least one condition of his probation, thereby warranting revocation, is supported by a preponderance of the evidence. *Foster v. State*, 104 Ark. App. 108, 109-10, 289 S.W.3d 476, 477 (2008). Likewise, any appeal based on the circuit court's denial of Wells's several pre- and post-hearing *pro se* motions would be wholly without merit. Lastly, Wells's *pro se* points for reversal on appeal are either a repeat of the arguments he made in his earlier motions or not

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preserved for appellate review. In short, Wells's *pro se* points on appeal are wholly without merit as well. We therefore affirm the circuit court's revocation decision and grant Wells's counsel's motion to withdraw as counsel.

Affirmed; motion to withdraw granted.

PITTMAN and GLADWIN, JJ., agree.