

# ARKANSAS COURT OF APPEALS

DIVISION III

No. CACR10-370

OTIS STRIBLING

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

**Opinion Delivered** January 26, 2011

APPEAL FROM THE JEFFERSON  
COUNTY CIRCUIT COURT  
[NO. CR-2008-335-1]

HONORABLE BERLIN C. JONES,  
JUDGE

REMANDED TO SETTLE AND  
SUPPLEMENT THE RECORD AND  
FOR REBRIEFING

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**DAVID M. GLOVER, Judge**

Appellant, Otis Stribling, was tried by a jury and found guilty of the offense of possession of a controlled substance, cocaine. He was sentenced to thirty-six months in the Arkansas Department of Correction.

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, appellant's counsel has filed a motion to withdraw, asserting that the appeal is wholly without merit. A motion of this type must be accompanied by an abstract and a brief referring to everything in the record that might arguably support an appeal, including all motions, objections, and requests decided adversely to appellant, along with a statement of reasons why none of those rulings would be a meritorious ground for reversal. Counsel's brief accompanied his motion to withdraw.

Appellant was provided with a copy and was notified of his right to file a list of pro se points for reversal within thirty days, but he has not done so. We remand this case to settle and supplement the record and for rebriefing.

The addendum to counsel's brief includes a November 12, 2009 notice of appeal that purports to appeal from a September 22, 2009 Judgment and Commitment Order, an October 1, 2009 amended Judgment and Commitment Order, an October 26, 2009 "Amended Judgment II," and a November 9, 2009 "Amended Judgment and Commitment Order III." However, the only Judgment and Commitment Order that is included in the addendum was filed October 26, 2009. Moreover, the November 9, 2009 Judgment and Commitment Order that is referenced in the November 12 notice of appeal does not appear in the record at all. The timely filing of a notice of appeal is crucial to the establishment of our jurisdiction. We cannot verify the timeliness of a notice of appeal unless the addendum contains the chain of orders and notices of appeal that establish the timely filing of each document in the process. Here, not only does the addendum lack the documents necessary to verify our jurisdiction, the record itself is missing a key document. We therefore remand this case to settle and supplement the record concerning the missing November 9, 2009 Judgment and Commitment Order, and, also, order the subsequent rebriefing of this case to include all necessary documents in the addendum.

Moreover, our review of the record also revealed that at least one adverse ruling was not addressed by counsel. On page 287 of the record in this case, an objection made by the

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State was sustained by the trial court. It should have been included in counsel's discussion of adverse rulings.

Remanded to settle and supplement the record and for rebriefing.

VAUGHT, C.J., and HART, J., agree.