

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CACR09-1302

RAYMOND YSEL BELL

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered FEBRUARY 9, 2011

APPEAL FROM THE SEBASTIAN
COUNTY CIRCUIT COURT,
FORT SMITH DISTRICT
[NO. CR-2006-657]

HONORABLE STEPHEN MERRILL
TABOR, JUDGE

MOTION DENIED; REBRIEFING
ORDERED

RITA W. GRUBER, Judge

We previously ordered rebriefing of this case because counsel failed to comply with Rule 4-3(k) of the Rules of the Arkansas Supreme Court and Court of Appeals. *Bell v. State*, 2010 Ark. App. 66. Counsel now has filed a substituted brief appealing Raymond Ysel Bell's revocation of his suspended sentence for aggravated robbery. And again, pursuant to *Anders v. California*, 386 U.S. 738 (1967) and to Rule 4-3(k), counsel has filed a motion to withdraw on the ground that the appeal is wholly without merit.

Counsel has partially complied with our rebriefing order by summarizing evidence in support of the revocation and by discussing the court's ruling on Bell's "leading" objection. The substituted brief remains inadequate in other ways, however, and again we must order rebriefing. A no-merit brief that fails to address an adverse ruling does not satisfy the requirements of Rule 4-3(k)(1) and must be rebriefed. *Sartin v. State*, 2010 Ark. 16, 362

S.W.3d 877; *Bell, supra*.

Our review of the record reveals that the court sustained two relevancy objections by the State. These are merely examples of adverse rulings that should have been addressed in counsel's brief, and we do not intend that counsel rely upon them as an exclusive list. We strongly encourage counsel, prior to filing another substituted brief, abstract, and addendum, to review our rules and avoid additional deficiencies. Once again, we direct counsel's attention to the briefing requirements for no-merit appeals:

The brief shall contain an argument section that consists of a list of all rulings adverse to the defendant made by the circuit court on all objections, motions and requests made by either party with an explanation as to why each adverse ruling is not a meritorious ground for reversal. The abstract and addendum of the brief shall contain, in addition to the other material parts of the record, all rulings adverse to the defendant made by the circuit court.

Ark. Sup. Ct. R. 4-3(k)(1) (2010).

We express no opinion as to whether the new appeal should be on the merits or should be made pursuant to *Anders, supra*, and Ark. Sup. Ct. R. 4-3(k)(1). If a no-merit brief is filed, counsel's motion and brief will be forwarded by the clerk to appellant so that, within thirty days, he again may raise any points he chooses in accordance with Ark. Sup. Ct. R. 4-3(k)(2). Counsel's motion to withdraw is denied, and the case is remanded for rebriefing.

Motion denied; rebriefing ordered.

VAUGHT, C.J., and ABRAMSON, J., agree.