

ARKANSAS COURT OF APPEALS

DIVISION III
No. CR-17-1077

THOMAS NATHANIEL HARTAWAY
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered: June 20, 2018

APPEAL FROM THE WASHINGTON
COUNTY CIRCUIT COURT
[NO. 72CR-16-212]

HONORABLE MARK LINDSAY,
JUDGE

AFFIRMED; MOTION TO
WITHDRAW GRANTED

BART F. VIRDEN, Judge

A Washington County jury convicted appellant Thomas Nathaniel Hartaway of possession of methamphetamine, and he was sentenced as a habitual offender to three years' imprisonment. Defense counsel has filed a motion to withdraw on the basis that there is no merit to an appeal. 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, counsel's motion to withdraw was accompanied by a brief that lists all rulings that were decided adversely to Hartaway with an explanation why each adverse ruling is not a meritorious ground for reversal. Hartaway was provided with a copy of counsel's brief and notified of his right to file pro se points for reversal. Hartaway did not file any pro se points.

Matthew Townsend with the Fayetteville Police Department testified that he was dispatched to a report of a burglary in progress on August 15, 2015. When Townsend

arrived, Hartaway was speaking with another officer. Because Hartaway was acting “pretty anxious and fidgety, moving around a lot,” Townsend asked for and was granted permission to search him. Townsend checked Hartaway’s pockets, and inside a package of cigarettes, he found a plastic baggie containing what was later confirmed to be .2737 grams of methamphetamine. After the trial court denied defense counsel’s motion for a directed verdict, the jury convicted Hartaway of possession of a controlled substance.

Defense counsel abstracted the only two adverse rulings that occurred—the trial court’s denial of Hartaway’s directed-verdict motion and an evidentiary ruling on an objection to hearsay during Townsend’s testimony. Defense counsel has adequately explained why neither of these adverse rulings provides a meritorious ground for reversal. From our review of the record and the brief presented to us, we find that defense counsel has complied with Rule 4-3(k), and we agree that the appeal is without merit. Accordingly, we grant defense counsel’s motion to withdraw and affirm Hartaway’s conviction.

Affirmed; motion to withdraw granted.

ABRAMSON and HIXSON, JJ., agree.

Knutson Law Firm, by: *Gregg A. Knutson*, for appellant.

One brief only.