

ARKANSAS COURT OF APPEALS

DIVISION III
No. CACR09-253

DOUGLAS E. BRITT

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered January 13, 2010

APPEAL FROM THE SEBASTIAN
COUNTY CIRCUIT COURT
[NO. CR-93-768]

HONORABLE STEPHEN TABOR,
JUDGE

AFFIRMED; MOTION TO BE
RELIEVED GRANTED

LARRY D. VAUGHT, Chief Judge

This is an appeal from an order revoking appellant Douglas Britt's suspended sentence and sentencing him to two years' imprisonment. Appellant's counsel has filed a no-merit brief and a motion to be relieved as counsel, pursuant to *Anders v. California*, 386 U.S. 738 (1967), and Ark. Sup. Ct. R. 4-3(k)(1), asserting that there is no non-frivolous argument to be made in support of an appeal. The clerk of this court furnished appellant a certified copy of his counsel's brief and motion to be relieved, informing appellant that he had the right to file pro se points for reversal. Appellant has not filed a pro se points in this matter.

On February 2, 1994, appellant pled guilty to overdraft charges, a class C felony. He was sentenced to a five-year suspended imposition of sentence conditioned on good behavior and ordered to pay fines, court costs, and restitution of \$2,366.12 at the rate of \$75.00 per month

beginning March 1, 1994. On December 6, 1994, the State filed a petition to revoke appellant's suspended sentence for failure to pay restitution. A hearing on the petition was held on November 18, 2008. A restitution ledger and a fines-and-costs ledger were introduced into evidence, both establishing that appellant had made no restitution payments. The only testimony was that of appellant who admitted that he failed to pay restitution. He said he forgot to pay the restitution, testifying that it just "slipped his mind." He asked the court for additional time to make the payments. The trial court questioned the credibility of the appellant and found that he had violated the conditions of his suspended sentence.

Appellant's counsel correctly argues that the only ruling below adverse to appellant was the revocation decision. Counsel asserts that because appellant admitted the violation, the trial court properly revoked appellant's suspended sentence. We agree that appellant's own testimony along with the restitution ledger and the fines-and-costs ledger supported the trial court's decision. As such, we affirm the revocation and grant counsel's motion to be relieved.

Affirmed; motion to be relieved granted.

GLOVER and MARSHALL, JJ., agree.