

ARKANSAS COURT OF APPEALS

DIVISION III

No. CACR 09-818

DARYL BLOCKMAN

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered JUNE 16, 2010

APPEAL FROM THE CRITTENDEN
COUNTY CIRCUIT COURT
[NO. CR-2005-106]

HONORABLE JOHN N.
FOGLEMEN, JUDGE

AFFIRMED; MOTION TO
WITHDRAW GRANTED

WAYMOND M. BROWN, Judge

A Crittenden County judge revoked Daryl Blockman's probation and ordered him to serve five years in the Arkansas Department of Correction. His attorney has filed a motion to withdraw as counsel, citing an inability to find a meritorious ground for reversal. Counsel has submitted a no-merit brief pursuant to *Anders v. California*¹ and Arkansas Supreme Court Rule 4-3(k). Blockman has filed no pro se points. We agree that an appeal would be wholly without merit. Thus, we affirm the revocation and grant counsel's motion to withdraw.

An attorney's request to withdraw from appellate representation based upon a meritless appeal must be accompanied by a brief that contains a list of all rulings adverse to his client

¹ 386 U.S. 738 (1967).

made on any objection, motion, or request made by either party.² The argument section of the brief must contain an explanation of why each adverse ruling is not a meritorious ground for reversal.³ We are bound to perform a full examination of the proceedings as a whole to decide if an appeal would be wholly frivolous.⁴ If counsel fails to address all possible grounds for reversal, we can deny the motion to withdraw and order rebriefing.⁵

The record reveals two adverse rulings: an evidentiary ruling and the decision to revoke Blockman's probation. Blockman was serving five years' probation for possession of marijuana with intent to sell. The State filed a petition to revoke on July 18, 2007, alleging that Blockman failed to pay fines, costs, and fees; failed to report to his probation officer; and used marijuana. Deborah Wiseman, who collects fines for the county, testified that Blockman was assessed \$1750 in fines and costs and that he made no payments in 2007 and sporadic payments since then. In addition, his probation officer testified that he did not report between August 2006 and August 2008. He tested positive for marijuana three times before he stopped reporting and twice since he began reporting in August 2008. After hearing this testimony, as well as testimony from Blockman himself, the court revoked Blockman's probation and sentenced him to five years in the Arkansas Department of Correction.

² *Eads v. State*, 74 Ark. App. 363, 47 S.W.3d 918 (2001).

³ *Id.*

⁴ *Campbell v. State*, 74 Ark. App. 277, 47 S.W.3d 915 (2001).

⁵ *Sweeney v. State*, 69 Ark. App. 7, 9 S.W.3d 529 (2000).

An appeal from the revocation would be frivolous. A sentence of probation or a suspended sentence may be revoked when a court finds by a preponderance of the evidence that the defendant has inexcusably failed to comply with a condition of his probation or suspended sentence.⁶ The State need only show that the appellant committed one violation to sustain a revocation.⁷ Here, the record supports a finding that Blockman continued to smoke marijuana, failed to report, and failed to pay fines and costs. All were violations of the terms and conditions of his probation, and this evidence was sufficient to support the decision to revoke his probation.

The only other adverse ruling occurred while Blockman's attorney was questioning the probation officer. When counsel began to ask whether the officer would be willing to continue his probation, the State objected. The court sustained the objection on relevancy grounds. The trial court did not abuse its discretion in sustaining the objection,⁸ as it is the court, not the probation officer, that decides whether to revoke one's probation.

An appeal here would be wholly without merit. Counsel has complied with the dictates of *Anders v. California* and Arkansas Supreme Court Rule 4-3(k). Accordingly, we affirm the revocation and grant counsel's motion to withdraw.

⁶ Ark. Code Ann. § 5-4-309(d) (Repl. 2008); *Williams v. State*, 351 Ark. 229, 91 S.W.3d 68 (2002).

⁷ *Richardson v. State*, 85 Ark. App. 347, 157 S.W.3d 536 (2004).

⁸ See *Echols v. State*, 326 Ark. 917, 936 S.W.2d 509 (1996) (stating that a trial court's ruling on relevancy is not reversed absent an abuse of discretion and a showing of prejudice).

Cite as 2010 Ark. App. 503

VAUGHT, C.J., and GRUBER, J., agree.