

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CACR09-822

ANTHONY SANDERS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered JUNE 23, 2010

APPEAL FROM THE CRITTENDEN COUNTY
CIRCUIT COURT
[NO. CR-2006-288]

HONORABLE RANDY FRANKLIN
PHILHOURS, JUDGE

REMANDED TO SUPPLEMENT RECORD;
REBRIEFING ORDERED; MOTION DENIED

M. MICHAEL KINARD, Judge

Anthony Sanders appeals from the revocation of his probation. Appellant's attorney has filed a no-merit brief and motion to be relieved as counsel. Because the record does not appear to contain any of the testimony from the actual revocation hearing, we remand to supplement the record, order rebriefing, and deny the motion to be relieved as counsel.

In 2006, appellant pled guilty to a charge of possession of a controlled substance (cocaine) with intent to deliver. Appellant was placed on probation for a period of sixty months. On February 18, 2008, the State filed a petition to revoke appellant's probation. In the petition, the State alleged that appellant 1) failed to pay fines, costs, and fees; 2) failed to report to his probation officer; 3) failed to pay probation fees; 4) failed to notify the local sheriff of his current address and employment; and 5) possessed and used cocaine.

From the record before us, it appears that the trial court determined that appellant violated the terms of his probation during a hearing held on October 29, 2008. Appellant's sentencing was continued until April 9, 2009. The record does not contain the transcript from the October 29, 2008 hearing. All that is contained in the record is the transcript from the apparent sentencing hearing on April 9, 2009. In no-merit appeals, both counsel for appellant and the appellate court must review the entire record as a component of affording the criminal defendant his or her constitutional rights. *Campbell v. State*, 74 Ark. App. 277, 47 S.W.3d 915 (2001). Neither this court nor counsel for appellant can do so without a record that contains all of the proceedings regarding the revocation of appellant's probation.

In addition, the argument section of a no-merit brief must contain a list of all adverse rulings to appellant at the hearing from which the appeal arose. Ark. Sup. Ct. R. 4-8(a)(1) (2010). The abstract and addendum must also contain all rulings adverse to appellant. Ark. Sup. Ct. R. 4-8(a)(2) (2010). We cannot know whether all rulings adverse to appellant have been discussed without the complete record. We order that the record be supplemented to include any and all proceedings regarding the revocation of appellant's probation that are not presently contained in the record. We note that several exhibits introduced at the sentencing hearing were returned to counsel by the court reporter. The completed record must comply with Arkansas Rule of Appellate Procedure-Criminal 4(d). We further order that the case be rebriefed once the record is complete. Appellant's counsel's motion to be relieved is denied.

Remanded to supplement the record; rebriefing ordered; motion denied.

PITTMAN and HENRY, JJ., agree.