

Cite as 2018 Ark. App. 386

ARKANSAS COURT OF APPEALS

DIVISION I

No. CR-17-720

LESLIE ANNA CROWELL

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered: August 29, 2018

APPEAL FROM THE SEBASTIAN
COUNTY CIRCUIT COURT, FORT
SMITH DISTRICT
[NO. 66FCR-16-1521]

HONORABLE JAMES O. COX,
JUDGE

AFFIRMED; MOTION TO
WITHDRAW GRANTED

MIKE MURPHY, Judge

A Sebastian County jury convicted Leslie Anna Crowell of delivering hydromorphone and maintaining a drug premises, both within 1000 feet of a church. Crowell was sentenced to ten years in the Arkansas Department of Correction.

In this no-merit appeal, Crowell's appellate attorney has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), and Arkansas Supreme Court Rule 4-3(k)(1) (2017), seeking to withdraw as counsel on the basis that there is no merit to an appeal. On March 13, 2018, Crowell filed pro se points pursuant to Rule 4-3(k)(2), alleging ineffective assistance of counsel and that she does not deserve the sentence she received. The State has filed a brief in response to each of Crowell's points as required by Rule 4-3(k)(3).

On June 14, 2017, Crowell was charged by felony information with delivery of hydromorphone, proximity to certain facilities, and maintaining a drug premises. At trial, the paid confidential informant testified about the controlled buy that forms the basis for the charges. Crowell's sister testified that, on the date of the controlled buy, Crowell called her asking for pills in exchange for money. The arresting officer, Donnie Ware, and Sergeant Doug Brooks both testified about setting up the buy with the informant and the subsequent arrests. Officer Greg Napier authenticated the video produced from the wire the confidential informant wore. The jury watched the video, which corroborated the testimony of the officers, informant, and sister. Next, Officer Darrell Craghead testified about the chain of custody for the hydromorphone and the statement he took from Crowell. A chemist from the Arkansas State Crime Lab testified that the drugs in question were usable amounts of hydromorphone. Finally, Officer Johnny Bolinger testified about how he ascertained the distance from the front door of the Vietnamese United Methodist Church to the center of the courtyard of Crowell's apartment complex, which he measured to be about 635 feet.

The State rested and Crowell's counsel moved for directed verdict, not as to the underlying charge of the delivery, but as to the charge of maintaining a drug premises. Specifically, he argued that there was no evidence presented to show that Crowell was in a position to exercise dominion and control over what was going on in the apartment. He argued that a video with her there and testimony that she put the apartment address on her *Miranda* form do not suffice as evidence to demonstrate she was maintaining a drug premise.

The court denied the motion. Crowell's counsel renewed the motion, and it was denied again. The case was sent to the jury.

After deliberation, the jury returned guilty verdicts. At the sentencing phase, the confidential informant testified more about how he knew Crowell and Crowell's boyfriend, what Crowell's home looked like, how the children were dirty and present at the sale, and how Crowell typically conducted her drug sales. Federal DEA task force agent Paul Smith also testified about the nature of the pill and drug markets in the area and about the particular drug delivered in this case, hydromorphone. The jury recommended that Crowell's sentences run concurrently, and she was sentenced to ten years in the Arkansas Department of Correction. This no-merit appeal followed.

A request to withdraw on the ground that the appeal is wholly without merit shall be accompanied by a brief including an abstract and addendum. *Furo v. State*, 2018 Ark. App. 23, at 2 (citing Ark. Sup. Ct. R. 4-3(k)(1)). 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. *Id.* (citing *Eads v. State*, 74 Ark. App. 363, 47 S.W.3d 918 (2001)). This framework ensures that indigents are afforded their constitutional rights. *Id.* (citing *Campbell v. State*, 74 Ark. App. 277, 47 S.W.3d 915 (2001)). In furtherance of the goal of protecting these constitutional rights, it is the duty of both counsel and this court to perform a full examination of the proceedings as a whole to decide if an appeal would be wholly frivolous. *Id.*

In compliance with the directives in *Anders* and Rule 4-3(k)(1), counsel for Crowell contends that he has thoroughly examined the circuit court record of this proceeding and found no error that would support an appeal. As required by Rule 4-3(k), the reasons the adverse rulings provide no meritorious grounds for appeal are discussed in the brief. Counsel indicates, and we confirm, that there was one unfavorable ruling for Crowell; that is, the denial of her motion for a directed verdict for the charges related to maintaining a drug premises.

Based on our review of the record and the brief presented, we conclude that there has been compliance with Rule 4-3(k)(1), there are no nonfrivolous issues that support an appeal in this case, and this appeal has no merit. Furthermore, we conclude that there is no merit to Crowell's pro se points in that they are either not preserved for appeal or do not support reversal. Consequently, we grant Crowell's counsel's motion to withdraw and affirm the convictions.

Affirmed; motion to withdraw granted.

KLAPPENBACH and VAUGHT, JJ., agree.

Brett D. Watson, Attorney at Law, PLLC, by: *Brett D. Watson*, for appellant.

Leslie Rutledge, Att'y Gen., by: *David L. Eanes, Jr., Ass't Att'y Gen.*, for appellee.