

ARKANSAS COURT OF APPEALS

DIVISION II
No. CR-17-895

ALIM SHAKIR HAKIM

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered: December 5, 2018

APPEAL FROM THE SEBASTIAN
COUNTY CIRCUIT COURT,
FORT SMITH DISTRICT
[NOS. 66FCR-15-222 AND
66FCR-2005-1107]

HONORABLE JAMES O. COX,
JUDGE

AFFIRMED; MOTION TO
WITHDRAW GRANTED

WAYMOND M. BROWN, Judge

Appellant appeals from the circuit court's order revoking his suspended imposition of sentence (SIS) on finding him guilty of simultaneous possession of drugs and firearms, possession of cocaine with intent to deliver, and possession of drug paraphernalia. Appellant's counsel has filed a no-merit brief and a motion to withdraw, pursuant to *Anders v. California*¹ and Arkansas Supreme Court Rule 4-3(k),² stating that there are no meritorious grounds to support an appeal. The clerk mailed a certified copy of counsel's motion and brief to appellant informing him of his right to file pro se points for reversal.

¹386 U.S. 738 (1967).

²(2017).

Appellant filed a pro se motion to file points for reversal belatedly; the motion was denied. We affirm appellant's revocation and grant counsel's motion to withdraw.

The circuit court's November 7, 2005 judgment and commitment order shows that appellant pled guilty to maintaining a drug premises for drug sales, possession of marijuana with intent to deliver, possession of drug paraphernalia, simultaneous possession of drugs and firearms, possession of cocaine with intent to deliver, and felon in possession of firearms in case number CR-2005-1107-B. He was sentenced to 84 months in the Arkansas Department of Correction (ADC), to be followed by 120 months' SIS. The terms and conditions of his SIS stated that violation of any of the terms and conditions could result in appellant being incarcerated in the ADC for a term of no more than thirty-three years.

On March 10, 2015, a criminal information was filed against appellant in case number CR-2015-222-A, alleging possession of drug paraphernalia on March 5, 2015. The circuit court's September 1, 2015 sentencing order stated that appellant pled guilty as charged and was sentenced to 60 months' SIS.

Appellee filed a petition to revoke on February 8, 2017, alleging that appellant committed new offenses on February 6, 2017: possession of drug paraphernalia, possession of cocaine with purpose to deliver, possession of hydrocodone with purpose to deliver, and possession of Xanax with purpose to deliver. It also alleged that appellant failed to pay his public-defender fees, fines, costs, and other fees as ordered. Appellee filed an amended

petition on March 21, 2017, adding an allegation that appellant committed the offense of delivery of cocaine on February 20 and 21, 2017.³

A revocation hearing was held on August 24, 2017. Only Greg Napier of the Fort Smith Police Department testified. Napier stated that he met with the confidential informant (CI) “prior to the deal”; the “[CI] was searched to make sure that she didn’t have any drugs, contraband or money in her possession”; and the money provided was prerecorded. The entire transaction was such that the CI met appellant—alone—at the Continental Motel in Fort Smith, Arkansas; gave him money; drove appellant to 4015 North 54th Street where he went inside, retrieved the substance, came out, and sold it to the CI; and then the CI took appellant back to where she had picked him up. Napier testified that after the CI made the transaction, they “did the reverse[,]” i.e., “searched her to make sure she did not have contraband, money” and she did not. Napier had given the CI \$100, and she was given a plastic bag that contained several pieces of what Napier identified to be cocaine through field testing. The drugs were sent to the Arkansas State Crime Lab, which confirmed that the substance was cocaine with a weight of .52 grams. This buy had been the second of two buys, the first occurring on February 16, 2017.⁴ Following Napier’s testimony, both parties rested.

³Greg Napier testified to controlled buys with appellant occurring on February 16 and 21, 2017.

⁴Appellant had been sentenced in relation to this buy on August 23, 2017.

A sentencing order was entered on August 29, 2017, stating that appellant was found guilty in a bench trial and sentenced to 336 months in the ADC. This timely appeal followed.⁵

In compliance with *Anders* and Rule 4-3(k), counsel ordered the entire record and found that after a conscientious review of the record, there are no issues of arguable merit for appeal. Counsel's brief adequately covered the only action that was adverse to appellant below, which was the revocation itself. After carefully examining the record and the brief presented to us, we find that counsel has complied with the requirements established by the Arkansas Supreme Court for no-merit appeals in criminal cases and conclude that the appeal is wholly without merit.

Affirmed; motion to withdraw granted.

GRUBER, C.J., and GLADWIN, J., agree.

David L. Dunagin, for appellant.

Leslie Rutledge, Att'y Gen., by: *Jacob H. Jones*, Ass't Att'y Gen., for appellee.

⁵“A notice of appeal filed after the trial court announces a decision but before the entry of the judgment or order shall be treated as filed on the day after the judgment or order is entered.” Ark. R. App. P.–Crim. 2(b)(1).