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ARKANSAS COURT OF APPEALS

DIVISION I
No. CR-17-925

JUSTIN BRAY

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered: January 16, 2019

APPEAL FROM THE SEBASTIAN
COUNTY CIRCUIT COURT,
FORT SMITH DISTRICT
[NO. 66FCR-12-334]

HONORABLE J. MICHAEL
FITZHUGH, JUDGE

AFFIRMED; MOTION TO
WITHDRAW GRANTED

WAYMOND M. BROWN, Judge

Appellant Justin Bray appeals from the Sebastian County Circuit Court’s order revoking his suspended imposition of sentence (SIS) on the underlying charges of possession of methamphetamine and possession of drug paraphernalia. Appellant’s counsel has filed a no-merit brief and 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. Appellant has failed to file any points for reversal. We affirm the revocation and grant counsel’s motion to withdraw.

¹386 U.S. 738 (1967).

²(2018).

On May 4, 2012, appellant negotiated a plea of nolo contendere to the charges of possession of methamphetamine, possession of drug paraphernalia, and possession of marijuana. He received five years' SIS for the methamphetamine charge and the paraphernalia charge; he received a one-year SIS on the marijuana charge.³ He was also ordered to pay court costs and fees. The sentencing order was filed on May 10, 2012.

The State filed a petition to revoke appellant's SIS on July 16, 2014, alleging that appellant had violated the terms and conditions of his SIS by committing new drug offenses and failing to pay fees and costs as ordered. The State withdrew its motion on August 29, 2014, following appellant's approval for the drug-court program.

The State filed a petition to revoke on April 4, 2017, alleging that appellant had violated the terms and conditions of his SIS by committing aggravated assault on a household or family member and by failing to pay fees and costs as ordered.

A revocation hearing took place on September 7, 2017. Sarah Montgomery testified that she and appellant had been engaged and living together prior to March 25, 2017. She stated that on March 25, she was in the process of moving out of appellant's apartment and that they were arguing because she had recently learned that appellant had been cheating on her. She stated that appellant got up during their argument and that they "kind of got in each other's faces and he said something hateful" causing her to spit in his face. She said that appellant then "got [her] to the ground" and choked her. She stated that she went to grab her purse when he let go of her but that he "put [her] back down and choked [her] again." She testified that appellant let her go and left the apartment after telling her that he

³They were to be served concurrent to each other.

had called the police. She stated that she waited approximately fifteen minutes for the police to arrive, but they never came. She testified that she went to the police station and filed a report after she left appellant's apartment. She stated that the police took pictures of the marks left around her neck by appellant.

Officer Jose Pacheco of the Fort Smith Police Department testified that he took Sarah's report on appellant on March 25, 2017. He said that he noticed red marks on Sarah's neck when he was taking the report, so he took pictures of those marks and attached them to the report. He testified that he took appellant into custody later that day.

The court found that appellant had violated the terms and conditions of his SIS and sentenced him to three years' imprisonment with an additional three years' SIS for each underlying charge. The sentences were to run concurrently to each other. The sentencing order was filed on October 3, 2017. Appellant filed a timely notice of appeal on October 6, 2017.

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 all the adverse rulings as well as the revocation itself. After carefully examining the record and the brief presented to us, we hold 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.

ABRAMSON and GLOVER, JJ., agree.

The Lancaster Law Firm, PLLC, by: Clinton W. Lancaster, for appellant.

One brief only.