

Cite as 2024 Ark. App. 17

ARKANSAS COURT OF APPEALS
DIVISION I
No. CR-23-180

LARRA GABRIELLEH COMPTON
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered January 17, 2024

APPEAL FROM THE BRADLEY
COUNTY CIRCUIT COURT
[NO. 06CR-21-064]

HONORABLE CREWS PURYEAR,
JUDGE

AFFIRMED; MOTION TO
WITHDRAW GRANTED

ROBERT J. GLADWIN, Judge

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), and Rule 4-3(b) of the Arkansas Rules of the Supreme Court and Court of Appeals (2023), appellant Larra Gabrielleh Compton’s counsel filed a motion to withdraw on the ground that this appeal is wholly without merit. The motion is accompanied by a statement of facts of the proceedings below as well as pleadings and transcript records including all objections and motions decided adversely to Compton and a brief in which counsel explains why there is nothing in the record that would support an appeal.

The clerk of this court sent copies of counsel’s motion and brief to Compton at the address counsel provided in the certificate of service in the motion to be relieved, informing her that she had the right to file pro se points for reversal. The packet was returned to the

clerk's office marked "Not deliverable as addressed/Unable to Forward." The court clerk requested additional contact information from counsel on April 14, and counsel reported that the address provided was the only one he had. The packet was remailed to the address of record, and it was again returned to the clerk's office with the message "Return to Sender/Not deliverable as addressed/Unable to forward" with a handwritten note on the envelope stating, "Not at this address." Compton made no additional contact, and no other contact information has been provided as of this date. Because Compton has not submitted pro se points for reversal pursuant to Arkansas Supreme Court Rule 4-3(b)(2), the State had no pleading to which to reply in accordance with Arkansas Supreme Court Rule 4-3(b)(3).

Because this is a no-merit appeal, counsel is required to list each ruling adverse to the defendant and to explain why each adverse ruling does not present a meritorious ground for reversal. *See Anders, supra*; Ark. Sup. Ct. R. 4-3(b); *Eads v. State*, 74 Ark. App. 363, 47 S.W.3d 918 (2001). The test is not whether counsel thinks the circuit court committed no reversible error but whether the points to be raised on appeal would be wholly frivolous. *See Anders, supra*; *Eads, supra*. Pursuant to *Anders*, we are required to determine whether the case is wholly frivolous after a full examination of all the proceedings. *See Anders, supra*; *Eads, supra*.

I. *Facts and Procedural History*

Compton negotiated a plea of guilty to the felony offense of theft of property, a Class D felony, as reflected in an amended sentencing order filed March 1, 2022, for which she was sentenced to forty-eight months' probation.

The State filed a petition to revoke on April 7, alleging the following violations of the terms and conditions of Compton's probation: condition 9—on March 1, 2022, she failed to report for intake as directed; condition 13—she failed to make any payments on her fine; condition 14—she failed to make any payments on her fees and costs; condition 15—she failed to make any payments to the sheriff's office; and condition 19—she failed to make all payments on her probation fees.

A hearing on the revocation petition was held on August 15, at which Compton was represented by appointed counsel. Compton was found guilty by the circuit court and sentenced to 180 days in the Community Correction Center (CCC) with an additional twenty-four months' suspended imposition of sentence (SIS). Compton signed the conditions of SIS, which were filed on August 15. An amended sentencing order was filed on September 7. Compton filed a timely notice of appeal on October 5.

The circuit court took judicial notice of Compton's case record. The State's sole witness was Sharon Anderson, the probation and parole agent in charge of Compton's probation. Ms. Anderson stated that Compton violated condition 9 when she failed to report for her intake. Further, she explained that conditions 13, 14, 15, and 19 were allegedly violated when Compton failed to make or complete payments of various fees, fines, and costs. Ms. Anderson testified that Compton successfully completed her intake on March 27, but on June 15 and 29 and August 4, she failed drug tests for amphetamines and methamphetamine. On the day of the revocation hearing, she failed tests for methamphetamine and amphetamines.

Ms. Anderson was not certain of the current status of payments on fines and costs. Her recommendation to the circuit court was that Compton's probation be revoked and that she be sentenced to the CCC.

On cross-examination, Ms. Anderson testified that Compton was in her office July 11 for an office visit. She was unaware of anything regarding New Beginnings. She stated she did know that Compton had an assessment on August 9 and was set up for an assessment on the day of the revocation hearing with Healing Hands in Warren. Healing Hands is another rehabilitation facility, which could provide either inpatient or outpatient services depending on the referral. On redirect, Ms. Anderson said that she had been giving Compton a chance to get straight since the revocation petition was filed in February. The State then rested its case.

Compton testified on her own behalf and stated that she was employed. She explained that she had attended New Beginnings but that it was not a good environment for her. Compton acknowledged that the treatment had not been successful and stated that she was currently attempting to enroll in Healing Hands located in Warren, Arkansas. She testified that it is a really good program, that her mother had also attended it, and she had been going for three years and was sticking with the program. She testified that she was looking forward to the treatment there if she was able to go. Compton acknowledged that she had been struggling with her addiction to methamphetamine for probably two years.

Compton testified that she had never started treatment with Healing Hands—her mother had given her their number, and although she made an appointment, she did not

go. She stated she was not ready and did not want it back then, but now was different. She wanted help with her addiction, and failing a drug test made her angry at herself. Compton testified that she now had a good job with good hours and also had paid two or three hundred dollars of her fees. She stocked items for the “Dollar Store” and had been there almost two months.

Compton requested that the circuit court allow her to go to Healing Hands. She noted that her mother had been there for three years, swore by it, and loved the people. Compton explained that her mom had been addicted to pain pills and that the Healing Hands program had helped her get clean over the past three years—and she still attends.

On cross-examination, Compton admitted that she had not successfully completed any type of rehabilitation since she was given an opportunity last spring to get clean. She said that she had tried to get caught up on her fees, fines, and costs but was not there yet after having paid a little bit. She admitted having failed multiple drug tests. She acknowledged that she had absconded and was not able to be tested. She agreed that drugs are her problem—or one of them.

Compton told the circuit court that she thought she had paid three hundred dollars and had paid online. She stated she paid one hundred dollars to the sheriff’s office specifically toward her costs, fees, and restitution. The ledger before the circuit court did not show any payment through the sheriff’s office.

The State recommended sentencing to the CCC, while the defense asked the circuit court to consider the option of placement in the Healing Hands rehabilitation program with later sentencing to CCC if she failed the program.

The circuit court stated that, by Compton's own admission, the State had met its burden to show that she had violated the conditions of her probation. Compton admitted that she had absconded for two months. Additionally, Ms. Anderson testified that Compton failed to report for her intake about two weeks after she entered into her plea; also, she had two positive drug tests in June and two in August.

With that, the circuit court found sufficient evidence had been presented that Compton had violated certain conditions of her probation. The circuit court sentenced her to 180 days in the CCC followed by two years' SIS because she still owed restitution of \$3,305.57, and all unpaid court costs, fees, fines, and restitution were to be paid during the two-year period of SIS.

Compton requested that the circuit court give her a chance at Healing Hands and noted that she had had to wait for her appointment there, which was set for the same day as the revocation hearing. Compton reiterated that she had a job and would not mess up, had insurance now, and was sorry for testing positive on the day of her hearing. The circuit court stated that it did not find any sincerity in her argument and remanded her to the custody of the sheriff.

An amended sentencing order was entered on September 7, and a notice of appeal was timely filed October 5.

II. Discussion

In compliance with Rule 4-3(b) and *Anders*, Compton's counsel states that he has thoroughly examined the record of this proceeding and submits that no nonfrivolous issues of law or fact would support an appeal. As required, he has abstracted all rulings adverse to Compton made by the circuit court on all objections, motions, and requests made by either party along with an explanation as to why each adverse ruling would not constitute meritorious grounds for reversal.

A. Adverse Rulings by the Circuit Court

Counsel maintains that there are no adverse rulings to be addressed other than the revocation of Compton's probation and the denial of Compton's oral request for sentencing to a rehab facility.

1. *Sufficiency of the evidence supporting the revocation of Compton's probation*

To revoke a suspended sentence, the State must prove that the defendant violated a condition of the suspended sentence. *Dillard v. State*, 2023 Ark. App. 487, at 4, 678 S.W.3d 444, 447. The State does not have to prove every allegation in its petition, and proof of only one violation is sufficient to sustain a revocation. *Id.* The State bears the burden of proving a violation by a preponderance of the evidence, but evidence that is insufficient for a criminal conviction may be sufficient for revocation of a suspended sentence. *Id.* at 5, 678 S.W.3d at 447. On appeal, we will affirm a circuit court's revocation of a suspended sentence unless the decision is clearly against the preponderance of the evidence. *Id.* Furthermore, because

the determination of a preponderance of the evidence turns on questions of credibility and weight to be given to the testimony, we defer to the circuit court's superior position. *Id.*

Compton negotiated a plea of guilty to the felony offense of theft of property (a Class D felony) as reflected in an amended sentencing order filed March 1, 2022, in Bradley County, Arkansas. She was placed on probation for a period of forty-eight months.

The State filed a petition to revoke on April 7 alleging that Compton had violated the terms and conditions of her probation; specifically, that she had violated condition 9 by failing to report for intake on March 1 as directed; condition 13 by failing to make any payments on her fine; condition 14 by failing to make any payments on her fees and costs; condition 15 by failing to make any payments to the sheriff's office; and condition 19 by failing to make all payments on her probation fees.

A revocation hearing was held August 15 wherein Compton was represented by appointed counsel. She was found guilty by the circuit court and sentenced to 180 days in the CCC followed by an additional twenty-four months' SIS.

Compton signed the conditions of the SIS, which were filed on August 15. An amended sentencing order was filed September 7. She then appealed her conviction through her substituted counsel.

The sole witness for the State was Compton's probation officer, Ms. Sharon Anderson. She stated that Compton failed to show for her intake, thus violating condition 9. She also violated conditions 13, 14, 15 and 19 when she failed to make or complete payments of fees, fines, and costs. Ms. Anderson also reported that Compton had failed

several drug tests for marijuana, amphetamines, and methamphetamine, including on the day of the hearing.

The State needed to prove only one violation to sustain the revocation. *Young v. State*, 2023 Ark. App. 416, at 2. We will not reverse a decision revoking a suspension or probation unless the circuit court's findings are clearly against the preponderance of the evidence, and we defer to the credibility determinations made by the circuit court. *Id.* On the basis of the evidence presented as set forth above, we affirm the circuit court's decision to revoke Compton's probation based on its finding that Compton inexcusably violated multiple conditions of her probation.

2. Denial of Compton's oral request for sentencing to a rehabilitation facility

During sentencing by the circuit court, Compton requested that the circuit court allow her to attend a local rehabilitation outpatient program that had greatly assisted her mother in her battle with addiction. The circuit court denied the request, finding that it believed a lockdown facility was what she needed. Compton was sentenced to 180 days in the CCC followed by a twenty-four-month SIS.

On appeal, counsel argues that there is no merit to challenging this adverse ruling. We agree. It is the circuit court's function to impose a sentence, and it is the court's obligation to exercise its discretion in the imposition of that sentence. *Lee v. State*, 2022 Ark. App. 336, at 5. We review a denial of an alternative sentence for an abuse of discretion. *Huggins v. State*, 2021 Ark. App. 218, at 5, 624 S.W.3d 342, 345. This standard of review is

a high threshold, requiring that a circuit court not act improvidently, thoughtlessly, or without due consideration. *Id.*

We have noted that a defendant who has received a sentence within the statutory range short of the maximum sentence cannot show prejudice from the sentence itself. *Taylor v. State*, 2022 Ark. App. 296, at 6. The circuit court did not abuse its discretion when it sentenced Compton to the CCC for 180 days with an additional twenty-four months' SIS.

We hold that the circuit court was correct in its ruling that Compton was in violation of terms of her probationary sentence and that there was sufficient evidence to revoke. The circuit court did not abuse its discretion in sentencing her within the statutory range of 180 days in the CCC followed by an additional period of suspended sentence. For the reasons presented herein, counsel submits this as a “no-merit” appeal in which all adverse rulings have been addressed and no grounds for reversal were found.

III. Conclusion

Having carefully reviewed the record for prejudicial error or errors that could support an appeal, and having found none, we conclude that the decision of the circuit court should be affirmed because any and all adverse rulings have been addressed, and no grounds for reversal were found. Accordingly, we affirm Compton's revocation and grant counsel's motion to withdraw.

Affirmed; motion to withdraw granted.

HARRISON, C.J., and HIXSON, J., agree.

Potts Law Office, by: Gary W. Potts, for appellant.

One brief only.