

Cite as 2024 Ark. App. 365
ARKANSAS COURT OF APPEALS
DIVISION I
No. CR-23-676

GEORGE E. BIGELOW

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered June 5, 2024

APPEAL FROM THE VAN BUREN
COUNTY CIRCUIT COURT
[NO. 71CR-20-09, 71CR-21-95]

HONORABLE H.G. FOSTER, JUDGE

AFFIRMED; MOTION TO BE
RELIEVED GRANTED

RAYMOND R. ABRAMSON, Judge

George E. Bigelow appeals the Van Buren County Circuit Court order revoking his probation and sentencing him to five years in prison. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), and Arkansas Supreme Court Rule 4-3(b) (2022), Bigelow’s attorney seeks to be relieved as appellate counsel and has filed a motion to withdraw. The motion is accompanied by a brief in which counsel explains why there is nothing in the record that would support an appeal. Bigelow provided no pro se points for reversal, so the State filed no reply brief. We affirm the appeal and grant counsel’s motion to be relieved.

On October 25, 2021, Bigelow pled nolo contendere to possession of a controlled substance in case No. 71CR-21-95, and he was sentenced to forty-eight months’ probation. Also on October 25, Bigelow pled nolo contendere to possession of drug paraphernalia in

case No. 71CR-20-09, and he was sentenced to forty-eight months' probation. The court ordered that both sentences run concurrently.

On May 3, 2022, the State petitioned to revoke Bigelow's probation in both cases. The State alleged that Bigelow had violated his probation by committing two new offenses; by not reporting within twenty-four hours of his release from prison on December 20, 2021; by not reporting to his supervising officer and avoiding contact with the Arkansas Community Correction as of April 29, 2022; by refusing to submit to a drug screen on December 7, 2021; by not making himself available for a drug screen as of April 29, 2022; by not providing proof of residence or employment; and by not paying his monthly supervision fees.

The court held a revocation hearing on June 6, 2023. At the hearing, Jimmy Carter testified that he supervised Bigelow's probation. He explained that Bigelow completed the initial intake and office visit but that Bigelow obtained new charges shortly after starting his probation term and that he did not report after his release from prison in December 2021. Carter clarified that he did not see Bigelow from December 2021 through May 2023, when he was arrested for the revocation. He further testified that Bigelow did not provide proof of his residence or employment, had not made himself available for a random drug screen as of April 29, 2022, and had not paid his supervision fees for sixty days.

Bigelow testified and admitted not reporting and not paying his fees. He explained that he did not report because he "was scared to death" that he would be arrested for new criminal charges. He further stated that he was homeless and struggled with drug addiction.

He explained that he received Social Security benefits and that he is unemployed, but he wanted to find employment. He testified he wanted to live at his sister's house, which is close to his mother's house. On cross-examination, Bigelow testified that he has used methamphetamine for about twenty years, but he had not used the drug in four or five months.

At the conclusion of the hearing, the court found that Bigelow had violated the conditions of his probation, and it sentenced him to five years in prison in both cases, to run concurrently. This appeal followed.

This is a no-merit appeal, which requires that the argument section of counsel's brief contain a list of all rulings adverse to the defendant made by the circuit court on all objections, motions, and requests with an explanation as to why each is not a meritorious ground for reversal. *Skaggs v. State*, 2023 Ark. App. 325, 670 S.W.3d 811. The requirement for briefing every adverse ruling ensures that the due-process concerns in *Anders* are met and prevents the unnecessary risk of a deficient *Anders* brief resulting in an incorrect decision on counsel's motion to withdraw. *Id.* Pursuant to *Anders*, we are required to determine whether the case is wholly frivolous after a full examination of all the proceedings. *Id.*

In revocation proceedings, the State has the burden of proving by a preponderance of the evidence that a defendant violated the terms of his probation as alleged in the revocation petition, and we will not reverse the circuit court's decision to revoke probation unless it is clearly against the preponderance of the evidence. *Stanley v. State*, 2023 Ark. App.

89, 661 S.W.3d 218. The State need only show that the defendant committed one violation to sustain a revocation. *Id.*

In this no-merit brief, counsel has addressed the sufficiency of the evidence presented in support of the revocation, and we agree with counsel that there could be no issue of arguable merit concerning the sufficiency of the evidence to revoke. The evidence establishes that Bigelow violated multiple conditions of his probation. Counsel also correctly states that other than the revocation of Bigelow's probation, the circuit court made no adverse ruling against Bigelow.

Having reviewed this appeal under the proper standards, we hold that counsel has complied with the mandates of Arkansas Supreme Court Rule 4-3(b) and that the appeal has no merit. Accordingly, we affirm the revocation of Bigelow's probation, and we grant counsel's motion to be relieved.

Affirmed; motion to be relieved granted.

GRUBER and WOOD, JJ., agree.

Davis Firm, PLLC, by: Jason R. Davis, for appellant.

One brief only.