

COURT OF APPEALS OF ARKANSAS

Devaron Henderson v. State of Arkansas

2026 Ark. App. 345 · No. CR-26-16 · Decided May 20, 2026

SUMMARY

The Arkansas Court of Appeals affirmed the revocation of Devaron Henderson’s probation and granted appointed counsel’s motion to withdraw in a no-merit appeal. The court held that Henderson’s admissions to failing to report and failing to pay fees and costs were sufficient to support revocation, and that the sentence imposed was within the applicable statutory range. The court concluded that the appeal was wholly without merit under Anders and Arkansas Supreme Court Rule 4-3(b).

CASE DETAILS

COURT	Court of Appeals of Arkansas
WRITING FOR THE COURT	Mike Murphy; Abramson; Brown
JURISDICTION	Arkansas Court of Appeals, Division IV
DECIDED	May 20, 2026
DOCKET	CR-26-16
DISPOSITION	affirmed
PROCEDURAL POSTURE	No-merit appeal from the revocation of Henderson's probation and suspended imposition of sentence; counsel sought permission to withdraw under Anders and Arkansas Supreme Court Rule 4-3(b).
STANDARD OF REVIEW	The appellate court will not reverse a probation-revocation finding unless it is clearly against the preponderance of the evidence. The existence of a preponderance of the evidence turns on credibility and the weight assigned to testimony.
PRECEDENTIAL VALUE	published
PARTIES	Devaron Henderson v. State of Arkansas

TOPICS

- probation
- criminal procedure
- appellate procedure
- sentencing
- standard of review

PRACTICE AREAS

- criminal law
- probation revocation
- appellate procedure

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support revocation of Henderson's probation.
2. Whether the circuit court imposed an unauthorized or otherwise erroneous sentence by rejecting Henderson's request for lesser punishment, extended probation, or credit for time served in Texas.
3. Whether counsel complied with *Anders v. California* and Arkansas Supreme Court Rule 4-3(b)(1) such that counsel could withdraw in a no-merit appeal.

HOLDINGS

1. A probation revocation is sustained when the State proves by a preponderance of the evidence that the defendant violated at least one probation condition. Henderson's admissions that he failed to report and failed to pay fees and court costs were sufficient to support revocation, regardless of the evidence concerning the alleged new domestic-battery offense.
2. The circuit court did not err in imposing three years' incarceration and two years' suspended imposition of sentence without credit for Henderson's Texas time served because the sentence was within the applicable statutory range and below the maximum sentence that could have been imposed originally.
3. Counsel complied with *Anders* and Arkansas Supreme Court Rule 4-3(b), and the appeal was wholly without merit; counsel's motion to withdraw was therefore granted.

KEY QUOTATIONS

"To revoke probation or suspended sentence, the State must prove by a preponderance of the evidence that the defendant violated a condition of his probation." (at 3)

"Even if the evidence were insufficient to prove that he committed a new criminal offense of domestic battery, the fact that Henderson pleaded true on the other two violations is sufficient for revocation." (at 3)

"Sentencing is entirely a matter of statute, and the circuit court has the authority to impose a particular sentence when it complies with the applicable statute." (at 4)

FACTUAL BACKGROUND

Henderson was placed on probation after pleading guilty to felony criminal mischief and endangering the welfare of a minor, and to driving while intoxicated. The State later alleged that he violated probation by failing to report, failing to pay fees and court costs, and committing a new offense. Henderson pleaded true to the reporting and payment violations and offered testimony concerning surgery, unemployment, financial hardship, and an erroneous Texas criminal-record entry. The circuit court revoked probation, sentenced him to three years' incarceration and two years' suspended imposition of sentence, and denied credit for time served in Texas.

PROCEDURAL HISTORY

Henderson pleaded guilty to first-degree criminal mischief, first-degree endangering the welfare of a minor, and driving while intoxicated and received probation for the felonies and a suspended imposition of sentence for the misdemeanor. The Columbia County Circuit Court later revoked his probation after he pleaded true to failing to report and failing to pay fees and costs, imposed three years' incarceration and two years' suspended imposition

of sentence, and declined to award credit for time served in Texas. Henderson appealed, and appointed counsel filed a no-merit brief and motion to withdraw.

DISPOSITION

affirmed

CASES CITED

- *Anders v. California*, 386 U.S. 738 (1967)
- *Moore v. State*, 2022 Ark. App. 5
- *Stephenson v. State*, 2023 Ark. App. 453
- *Stewart v. State*, 2021 Ark. App. 289, 624 S.W.3d 357
- *Sivils v. State*, 2021 Ark. App. 198, 623 S.W.3d 138
- *Hogue v. State*, 2024 Ark. App. 251, 687 S.W.3d 868

OPINION

PER CURIAM.

Cite as 2026 Ark. App. 345 ARKANSAS COURT OF APPEALS DIVISION IV No. CR-26-16 Opinion Delivered May 20, 2026 DEVARON HENDERSON APPELLANT APPEAL FROM THE COLUMBIA COUNTY CIRCUIT COURT [NO. 14CR-21-208] V. HONORABLE DAVID W. TALLEY, JR., JUDGE STATE OF ARKANSAS AFFIRMED; MOTION TO WITHDRAW APPELLEE GRANTED MIKE MURPHY, Judge This is a no-merit appeal filed on behalf of appellant Devaron Henderson following the revocation of his probation by the Columbia County Circuit Court.

Henderson’s counsel has filed a no-merit brief and a motion to be relieved in accordance with *Anders v. California*, 386 U.S. 738 (1967), and Arkansas Supreme Court Rule 4-3(b), stating that there are no meritorious grounds to support an appeal. Henderson was notified of his right to file pro se points in response to his counsel’s brief, and he has not done so.

We affirm and grant counsel’s motion to be relieved. On August 10, 2021, a felony information was filed in this case, 14CR-21-208, charging Henderson with one count of commercial burglary, one count of first-degree criminal mischief, first-degree endangering the welfare of a minor, one count of driving while intoxicated, and one count of theft of property. Henderson pleaded guilty to criminal mischief, endangering the welfare of a minor, and driving while intoxicated pursuant to a plea agreement.

The circuit court sentenced Henderson to a total of five years’ probation for the felonies and a one-year suspended imposition of sentence for the misdemeanor. The written conditions of his probation were signed by him and filed with the court on April 7, 2022.

On July 15, 2025, a petition for revocation of probation was filed alleging that Henderson had violated multiple conditions of his probation. Specifically, Henderson had failed to report, pay court-ordered fines, and committed a new criminal offense. Henderson had his first appearance on July 17, where he entered a plea of not guilty, a public defender was appointed, and a revocation hearing was set for August 21.

At the revocation hearing, Henderson pleaded true to the allegations in the petition that he failed to report as directed and that he failed to pay his fees and court costs. Regarding the remaining allegations that he committed a new criminal offense, the parties presented evidence concerning a charge for third-degree domestic battery. Henderson chose to testify during sentencing.

He testified that he failed to report on several dates because he had surgery on his arm, which caused him to be laid off from work and get behind on his payments. He explained he did not want to report until he was able to pay on the fees and fines. Henderson was aware he was supposed to report but was scared to do so because he was behind on payments.

After the surgery and losing his job, he lost his car and his utilities were shut off. He explained that he struggled to find new employment because a background-check error incorrectly showed he was serving a six-year sentence in 2 Texas. Henderson said he had been wrongly arrested before being placed on probation in this case, and although the mistake was corrected, the record “has never left [his] name.” He testified that he expected to return to work at Tyson and resume making his payments.

Following testimony, the State recommended a sentence of incarceration but deferred to the circuit court on the term. Henderson asked that his probation be extended because it would be better for him to be in the community working and getting caught up on his fees and fines but that if the court impose some prison time, that he should get time served credit for the sentence he served in Texas that was not his.

The circuit court found that Henderson had violated the terms of his probation and sentenced him to a total of three years’ incarceration and two years’ suspended imposition of sentence. The court declined to calculate Henderson’s time served in Texas, reasoning that it occurred before he was ever placed on probation in this case and therefore should not count toward his sentence here.

The sentencing order was entered on September 30, 2025, and a notice of appeal was filed on October 22, 2025. A request to withdraw on the basis that the appeal is wholly without merit must be accompanied by a brief containing 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.

Ark. Sup. Ct. R. 4-3(b)(1). A no-merit brief in a criminal case that fails to address an adverse ruling does not satisfy the requirements of Rule 4-3(b)(1), and rebriefing will be required. *Moore v. State*, 2022 Ark. App. 5.

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. *Stephenson v. State*, 2023 Ark. App. 453. Counsel contends that there are no issues of merit to support an appeal and has adequately explained why an appeal would be wholly frivolous.

We first address whether the evidence was sufficient to support the revocation. To revoke probation or suspended sentence, the State must prove by a preponderance of the evidence that the defendant violated a condition of his probation. *Stewart v. State*, 2021 Ark. App. 289, 624 S.W.3d 357.

We will not reverse the circuit court's findings unless they are clearly against the preponderance of the evidence. *Id.* Evidence that would not support a criminal conviction in the first instance may be enough to revoke probation or a suspended sentence. *Id.* Determining whether a preponderance of the evidence exists turns on questions of credibility and weight to be given to the testimony.

Id. Henderson admitted to violating two conditions of his probation: failure to report and failure to pay. Even if the evidence were insufficient to prove that he committed a new criminal offense of domestic battery, the fact that Henderson pleaded true on the other two violations is sufficient for revocation. See *Sivils v. State*, 2021 Ark. App. 198, at 5, 623 S.W.3d 138, 141 (holding that the State need only show that the defendant committed one violation in order to sustain a revocation).

The only additional adverse ruling to Henderson was his request for a lesser sentence, including his request for extended probation or credit for time served. ⁴ Sentencing is entirely a matter of statute, and the circuit court has the authority to impose a particular sentence when it complies with the applicable statute. *Hogue v. State*, 2024 Ark. App. 251, at 3, 687 S.W.3d 868, 871.

According to Ark. Code Ann. § 16-93- 308(g)(1)(A) (Supp. 2025), when revoking a defendant's probation, "the court may enter a judgment of conviction and may impose any sentence on the defendant that might have been imposed originally for the offense of which he or she was found guilty." In the underlying case, Henderson was convicted of first-degree criminal mischief, a Class C felony; first-degree endangering the welfare of a minor, a Class D felony; and one count of driving while intoxicated.

¹ At the time of his conviction, the sentencing range for a Class C felony was three to ten years' incarceration, and the sentencing range for a Class D felony was up to six years' incarceration. Ark. Code Ann. § 5-4-401. Upon revocation, the circuit court sentenced Henderson to a total of

three years' incarceration and a two-year suspended imposition of sentence without credit for time served.

This sentence was within the statutory range and below the maximum sentence. Thus, no meritorious argument could be made on appeal that the circuit court erred in rejecting his plea for a lesser punishment. From our review of the record and the brief presented to us, we find compliance with Anders and Rule 4-3 and hold that the appeal is wholly without merit.

Accordingly, we grant counsel's motion to withdraw and affirm Henderson's revocation Affirmed; motion to withdraw granted. 1 He was sentenced to a one-year suspended imposition of sentence on the DWI, which he completed, so it was not at issue on revocation. 5 ABRAMSON and BROWN, JJ., agree. Law Offices of John Wesley Hall, by: Samantha J. Carpenter, for appellant.

One brief only. 6

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