



In re Interest of Kaira H.

2013 | Cited 0 times | Nebraska Court of Appeals | April 9, 2013

Cite as 2013 Ark. App. 657

ARKANSAS COURT OF APPEALS DIVISION III No. CR-13-157

Opinion Delivered November 6, 2013

APPEAL FROM THE PULASKI BOBBY CUMMINS COUNTY CIRCUIT COURT, APPELLANT
FOURTH DIVISION [NO. CR-2011-1355] V. HONORABLE HERBERT WRIGHT, STATE OF
ARKANSAS JUDGE

APPELLEE DISMISSED; MOTION TO WITHDRAW GRANTED

RHONDA K. WOOD, Judge

This is a no-merit appeal from a probation revocation. Bobby Cummins pleaded guilty to various offenses in January 2012 and was sentenced to five years' probation. In September 2012, the prosecutor filed an amended petition to revoke Cummins's probation, alleging that he had committed new crimes, failed to complete community service hours, failed to report to his probation officer, refused to submit to drug tests, failed to complete GED classes, and failed to pay his fines. Cummins pleaded guilty to these charges, and the circuit court revoked his probation and sentenced him to prison. Cummins's appellate counsel has filed a no-merit brief and motion to withdraw under *Anders v. California*, 386 U.S. 738 (1967), and Ark. Sup. Ct. R. 4-2(k)(2) (2013).

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The brief and motion comply with the rules for these types of appeals. Cummins was



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given an opportunity to file a pro se points, but has declined to do so.

We hold that the appeal is without merit because, generally, a defendant cannot appeal from a guilty plea. Ark. R. App. P.–Crim. 1(a) (2013). Exceptions to this rule include (1) conditional-guilty pleas, (2) when the issue on appeal is one of evidentiary errors that happened during the sentencing phase of the trial, or (3) the denial of a postjudgment motion to amend an incorrect or illegal sentence. *Johnson v. State*, 2010 Ark. 63 ; *Reeves v. State*, 339 Ark. 304 , 5 S.W.3d 41 (1999); Ark. R. Crim. P. 24.3(b). None of those exceptions apply here. Cummins’s appeal is therefore dismissed, and the motion to withdraw is granted. See *Wise v. State*, 2013 Ark. App. 1 .

Dismissed; motion to withdraw granted.

GLADWIN, C.J., and PITTMAN, J., agree.

William R. Simpson, Jr., Public Defender; Brandy Turner, Deputy Public Defender,

by: Margaret Egan, Deputy Public Defender, for appellant.

No response.