

***IN THE SUPREME COURT, STATE OF WYOMING***

**2019 WY 72**

***April Term, A.D. 2019***

***July 17, 2019***

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**TREVER L. ROSS,**

**Appellant  
(Defendant),**

**v.**

**S-19-0058, S-19-0059**

**THE STATE OF WYOMING,**

**Appellee  
(Plaintiff).**

**ORDER AFFIRMING THE DISTRICT COURT’S “SENTENCE ON  
PROBATION REVOCATION AND ORDER OF PROBATION”  
AND  
ORDER AFFIRMING THE DISTRICT COURT’S  
“SENTENCE AND PROBATION ORDER”**

[¶ 1] **This matter** came before the Court upon its own motion following notification that Appellant has not filed a *pro se* brief within the time allotted by this Court. Pursuant to a plea agreement, Appellant resolved two district court cases. In S-19-0058, Appellant challenges the district court’s February 1, 2019, “Sentence on Probation Revocation and Order of Probation.” In that order, the district court revoked Appellant’s probation, which stemmed from a conviction for felony property destruction. Wyo.Stat. Ann. § 6-3-201(b)(iii). Appellant admitted he violated his probation by committing the offense at issue in S-19-0059. The district court imposed the underlying 5 to 7-year sentence, then suspended it in favor of three years of supervised probation. In S-19-0059, Appellant challenges the district court’s February 1, 2019, “Sentence and Probation Order.” Pursuant to the plea agreement, Appellant entered an unconditional guilty plea to one count of sexual abuse of a minor in the third degree. Wyo.Stat. Ann. § 6-2-316(a)(iv). The district court imposed a 5 to 12-year sentence, which was suspended in favor of three years of supervised probation. The district court ordered the sentences and the two probationary terms to be served consecutively.

[¶ 2] On May 17, 2019, Appellant’s court-appointed appellate counsel filed, in these consolidated appeals, a “Motion to Withdraw as Counsel,” pursuant to *Anders v. California*, 386 U.S. 738, 744, 87 S.Ct. 1396, 1400, 18 L.Ed.2d 493 (1967). The next day, this Court entered an “Order Granting Motion for Extension of Time to File *Pro Se* Brief.” This Court ordered that, on or before July 5, 2019, Appellant “may file with this Court a *pro se* brief specifying the issues he would like the Court to consider in this appeal.” This Court also provided notice that, after the time for filing a *pro se* brief expired, this Court would “make its ruling on counsel’s motion to withdraw and, if appropriate, make a final decision” on these appeals. This Court notes that Appellant did not file a *pro se* brief or other pleading in the time allotted.

[¶ 3] Now, following a careful review of the records and the “*Anders* brief” submitted by appellate counsel, this Court finds that appellate counsel’s motion to withdraw should be granted and the district court’s “Sentence on Probation Revocation and Order of Probation” and its “Sentence and Probation Order” should be affirmed, subject to correction of both orders regarding the amount of credit for time served. It is, therefore,

[¶ 4] **ORDERED** that the Wyoming Public Defender’s Office, court-appointed counsel for Appellant, Trever L. Ross, is hereby permitted to withdraw as counsel of record for Appellant; and it is further

[¶ 5] **ORDERED** that, with respect to docket S-19-0058, the district court’s February 1, 2019, “Sentence on Probation Revocation and Order of Probation” be, and the same hereby is, affirmed, subject to this correction. Appellant should receive credit for 609 days served, rather than 599 (Sentencing/Disposition Transcript, Dec. 17, 2018, p. 10); and it is further

[¶ 6] **ORDERED** that, with respect to docket S-19-0059, the district court’s February 1, 2019, “Sentence and Probation Order,” be, and the same hereby is, affirmed, subject to this correction. Appellant should be awarded credit for 306 days served, rather than 245. In its oral pronouncement, the district court awarded 306 days of credit. (Sentencing/Disposition Transcript, Dec. 17, 2018, p. 13) “A long-recognized rule of this Court is that where there is conflict between the sentence as articulated at sentencing, and the written sentence, the oral sentence prevails.” *Pinker v. State*, 2008 WY 86, ¶ 7, 188 P.3d 571, 574 (Wyo. 2008); *Medina v. State*, 2013 WY 119, 309 P.3d 1247 (Wyo. 2013).

[¶ 7] **DATED** this 17<sup>th</sup> day of July, 2019.

**BY THE COURT:**

/s/

**MICHAEL K. DAVIS**  
**Chief Justice**