

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

NO. COA11-987
NORTH CAROLINA COURT OF APPEALS

Filed: 7 February 2012

STATE OF NORTH CAROLINA

v.

Harnett County
No. 09 CRS 51973; 10 CRS 525

PATRICK HARRIS

Appeal by defendant from judgment entered 11 April 2011 by Judge Claire Hill in Harnett County Superior Court. Heard in the Court of Appeals 23 January 2012.

Attorney General Roy Cooper, by Assistant Attorney General Daniel P. O'Brien, for the State.

Levine & Stewart, by James E. Tanner III, for defendant-appellant.

ERVIN, Judge.

Pursuant to an agreement with the State, Defendant entered a plea of guilty to one count of selling cocaine and to having attained the status of an habitual felon. In addition, Defendant stipulated to his prior convictions, which supported a finding that he should be sentenced as a Level IV offender. The plea agreement between Defendant and the State provided that Defendant would receive a mitigated sentence of 80 to 105 months

imprisonment. At the conclusion of the plea and sentencing hearing, the trial court sentenced Defendant consistently with the terms of the plea agreement between Defendant and the State. Defendant noted an appeal to this Court from the trial court's judgment.

Defendant's appellate counsel has been unable to identify any issue with sufficient merit to support a meaningful request for relief from the trial court's judgment. As a result, Defendant's appellate counsel has requested this Court to conduct its own review of the record in order to determine whether any prejudicial error occurred in connection with the entry of the trial court's judgment. Counsel has satisfactorily complied with the requirements of *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967), and *State v. Kinch*, 314 N.C. 99, 331 S.E.2d 665 (1985), by advising Defendant of his right to file written arguments with this Court and providing him with the sufficient materials to allow Defendant to do so. Defendant has not filed any written arguments with this Court despite the fact that a reasonable time within which such a filing might be made has elapsed.

In accordance with *Anders*, we have fully examined the record to determine whether any issues of arguable merit are present. N.C. Gen. Stat. § 15A-1444(e) provides that a

defendant who has entered a guilty plea has only a limited right to appeal. The record before us in this case does not show that Defendant unsuccessfully sought to withdraw his guilty plea or litigated a suppression motion. Thus, Defendant's right to appeal from the trial court's judgment was limited to the sentencing issues delineated in N.C. Gen. Stat. §§ 15A-1444(a1) and (a2). As we have already noted, Defendant stipulated to the existence of his prior convictions, which, taken in their entirety, support the trial court's conclusion that Defendant should be sentenced as a Level IV offender. Moreover, Defendant received the specific mitigated sentence provided for in his plea agreement. As a result, after carefully reviewing the record, we find no possible prejudicial error and conclude that Defendant's appeal is wholly frivolous.

AFFIRMED.

Judges ROBERT C. HUNTER and STEPHENS concur.

Report per Rule 30(e).