

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA06-389

NORTH CAROLINA COURT OF APPEALS

Filed: 19 December 2006

STATE OF NORTH CAROLINA

v.

Mecklenburg County  
No. 04 CRS 223925

JORDAN ALEXANDER POSEY

Appeal by defendant from judgment entered 28 June 2005 by Judge J. Gentry Caudill in Mecklenburg County Superior Court. Heard in the Court of Appeals 11 December 2006.

*Attorney General Roy Cooper, by Assistant Attorney General J. Philip Allen, for the State.*

*Eric A. Bach, for defendant-appellant.*

LEVINSON, Judge.

On 28 June 2005, Jordan Alexander Posey (defendant) pled guilty to common law robbery without a plea agreement. Defendant was sentenced within the presumptive range to a suspended sentence of twelve to fifteen months imprisonment and was placed on supervised probation for thirty-six months. Defendant appeals. We affirm.

Defendant's appellate counsel states he "is unable to identify an issue with sufficient merit to support a meaningful argument for relief on appeal." As such, defense counsel asks this Court to

fully review the record for possible prejudicial error. We conclude that defense counsel has complied with the requirements of *Anders v. California*, 386 U.S. 738, 18 L. Ed. 2d 493, *reh'g denied*, 388 U.S. 924, 18 L. Ed. 2d 1377 (1967), and *State v. Kinch*, 314 N.C. 99, 331 S.E.2d 665 (1985), by advising defendant that he was unable to identify any issues to raise in the appeal, advising defendant of his right to file written arguments with this Court, and by providing defendant with the documents necessary for him to do so. Defendant has not filed any written arguments on his own behalf with this Court, and a reasonable time has passed in which he could have done so.

In accordance with *Anders* and *Kinch*, we must fully examine the record to determine whether any issues of arguable merit appear therefrom or whether the appeal is wholly frivolous. At the outset, we note that because defendant pled guilty and was sentenced within the presumptive range, defendant's appeal is limited. Specifically, under N.C. Gen. Stat. § 15A-1444, a defendant who has pled guilty has a right to appeal only the following issues: (1) whether the sentence is supported by the evidence (if the minimum term of imprisonment does not fall within the presumptive range); (2) whether the sentence results from an incorrect finding of the defendant's prior record level under N.C. Gen. Stat. § 15A-1340.14 or the defendant's prior conviction level under N.C. Gen. Stat. § 15A-1340.21; (3) whether the sentence contains a type of sentence not authorized by N.C. Gen. Stat. § 15A-1340.17 or § 15A-1340.23 for the defendant's class of offense

and prior record or conviction level; (4) whether the sentence contains a term of imprisonment that is for a duration not authorized by N.C. Gen. Stat. § 15A-1340.17 or N.C. Gen. Stat. § 15A-1340.23 for the defendant's class of offense and prior record or conviction level under N.C. Gen. Stat. § 15A-1444(a2) (3); (5) whether the trial court improperly denied the defendant's motion to suppress; or (6) whether the trial court improperly denied the defendant's motion to withdraw his guilty plea. *State v. Jamerson*, 161 N.C. App. 527, 528-29, 588 S.E.2d 545, 546-47 (2003). In accordance with *Anders* and *Kinch*, we have conducted our own examination of the record for possible prejudicial error under Section 15A-1444 of the North Carolina General Statutes and have found none.

No error.

Judges TYSON and BRYANT concur.

Report per Rule 30(e).