

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA16-919

Filed: 7 March 2017

Forsyth County, No. 06 CRS 51434

STATE OF NORTH CAROLINA

v.

JOSE LUIS DOMINGUEZ

Appeal by defendant from order entered 8 June 2016 by Judge Eric C. Morgan in Forsyth County Superior Court. Heard in the Court of Appeals 20 February 2017.

Attorney General Roy Cooper¹, by Assistant Attorney General Tracy Nayer, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Katherine Jane Allen, for defendant-appellant.

CALABRIA, Judge.

Jose Luis Dominguez (“defendant”) appeals from an order denying his motion to locate and preserve evidence and for DNA testing under N.C. Gen. Stat. § 15A-269 (2015). For the reasons set forth below, we affirm the trial court’s order.

On 10 August 2006, defendant was convicted by a jury of first-degree rape and indecent liberties. The trial court sentenced defendant to consecutive terms of 288 to

¹ When the briefs and records in this case were filed, Roy Cooper was Attorney General. Joshua H. Stein was sworn in as Attorney General on 1 January 2017.

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355 and 19 to 23 months' imprisonment. Defendant appealed, and this Court found no error. *State v. Dominguez*, 186 N.C. App. 305, 650 S.E.2d 675 (2007) (unpublished).

On 9 May 2016, defendant filed a *pro se* motion to locate and preserve evidence and for DNA testing. The court denied the motion by written order entered 8 June 2016. Defendant filed written notice of appeal on 16 June 2016.

Counsel appointed to represent defendant states that she is unable to identify any issue with sufficient merit to support a meaningful argument for relief on appeal and asks that this Court conduct its own review of the record for possible prejudicial error. Counsel shows to the satisfaction of this Court that she has complied with the requirements of *Anders v. California*, 386 U.S. 738, 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 documents necessary to do so.

Defendant has not filed any documents on his own behalf with this Court and a reasonable time for him to do so has expired. In accordance with *Anders*, we have fully examined the record to determine whether any issue of arguable merit appears therefrom. We are unable to find any possible prejudicial error and conclude that defendant's appeal therefrom is wholly frivolous. As a result, the trial court's order is affirmed.

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AFFIRMED.

Chief Judge McGEE and Judge DILLON concur.

Report per Rule 30(e).