

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA17-11

Filed: 18 July 2017

Wake County, No. 15CRS219845

STATE OF NORTH CAROLINA,

v.

MICHAEL CRAIG MOODY, JR., Defendant.

Appeal by defendant from judgments entered 22 August 2016 by Judge Reuben F. Young in Wake County Superior Court. Heard in the Court of Appeals 10 July 2017.

*Attorney General Joshua H. Stein, by Assistant Attorney General Mary Carla Babb, for the State.*

*Andrew K. Yu for defendant-appellant.*

BERGER, Judge.

On August 22, 2016, Michael Craig Moody, Jr. (“Defendant”) pleaded guilty to trafficking heroin by possession and trafficking heroin by transportation. Pursuant to a plea arrangement, Defendant was sentenced to two consecutive terms of seventy to ninety-three months of imprisonment. Defendant gave timely notice of appeal in open court.

STATE V. MOODY

*Opinion of the Court*

Counsel appointed to represent Defendant has been unable to identify any meritorious issue 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 has shown to the satisfaction of this Court that he 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.

By virtue of his guilty plea, Defendant's right of appeal was limited to the grounds set forth in N.C. Gen. Stat. § 15A-1444 (2016). Here, however, Defendant was sentenced for drug trafficking pursuant to N.C. Gen. Stat. § 90-95(h) (2016), rather than under structured sentencing. Consequently, the State has moved to dismiss Defendant's appeal, asserting that Defendant has no cognizable ground for direct appeal under N.C. Gen. Stat. § 15A-1444. *See State v. Saunders*, 131 N.C. App. 551, 553, 507 S.E.2d 911, 912 (1998) ("The punishment range set out in structured sentencing . . . does not control the minimum sentence when an applicable statute, such as N.C. Gen. Stat. § 90-95 in this case, requires or authorizes another minimum sentence.").

We agree. Defendant's appeal is hereby dismissed as there is no basis for appeal from his guilty plea.

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*Opinion of the Court*

DISMISSED.

Judges ELMORE and DIETZ concur.

Report per Rule 30(e).