An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA17-635

Filed: 6 February 2018

Mecklenburg County, Nos. 15 CRS 245429, 245431

STATE OF NORTH CAROLINA

v.

GEOFFREY LEWIS WOMACK

Appeal by defendant from judgment entered 10 February 2017 by Judge Robert C. Ervin in Mecklenburg County Superior Court. Heard in the Court of Appeals 2 January 2018.

Attorney General Joshua H. Stein, by Assistant Attorney General Lewis W. Lamar, Jr., for the State.

Winifred H. Dillon for defendant-appellant.

BRYANT, Judge.

Where we are unable to find any possible prejudicial error in the judgment, defendant's appeal is wholly frivolous and we conclude that defendant received a fair trial free from error.

On 16 December 2015, Pamela Reaves and Kristen Grisanti were working as private security guards at the Social Security Office in Charlotte, where they were stationed at a desk in the lobby. The Social Security Office closed around lunchtime,

whereupon Reaves and Grisanti left to attend a meeting with other security guards. When Reaves and Grisanti returned to the Social Security Office they discovered that several of their personal items were gone from the guard's desk, including a cell phone, car keys, and a jacket. While security guards were searching for the missing items, Reaves encountered defendant Geoffrey Lewis Womack outside and accused him of having taken the missing items. Defendant admitted to having done so and offered to return the items. Reaves followed defendant, who led Reaves to her own car. She looked inside and saw the missing items. Defendant also had the key to her car in his hand. Officers with the Charlotte-Mecklenburg Police Department came and arrested defendant. In a subsequent interview with police, defendant signed a *Miranda* waiver and admitted to taking the items.

On 16 May 2016, defendant was charged by indictment with felony larceny, felony possession of stolen goods, three counts of misdemeanor larceny, and attaining habitual felon status. The State voluntarily dismissed one count of misdemeanor larceny prior to trial. On 7 February 2017, the trial court held a hearing on defendant's motion to suppress his statements made to police and ultimately denied the motion. On 10 February 2017, a jury found defendant guilty of two counts of misdemeanor larceny. The jury could not reach a verdict on the two felony counts,

and a mistrial was declared as to those counts.[1] The trial court arrested judgment on one of the misdemeanor larceny convictions (No. 15 CRS 245431) and sentenced defendant to 120 days' imprisonment on the other larceny conviction (No. 15 CRS 245429). Defendant filed written notice of appeal from the judgment on 21 February 2017.

On appeal, defendant's appointed counsel 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 an independent review of the record for possible prejudicial error. Counsel satisfactorily demonstrated to 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. While counsel for defendant specifically directs our attention to the trial

[1] By virtue of the fact that the State could not procure convictions on either of the felony counts, it could not proceed on the habitual felon indictment. *See* N.C. Gen. Stat. § 14-7.5 (2015) ("The indictment that the person is an habitual felon shall not be revealed to the jury unless the jury shall find that the defendant is guilty of the principal felony or other felony with which he is charged.").

court's denial of defendant's motion to suppress his confession, counsel is correct in her implicit concession that the trial court's findings of fact are supported by competent evidence, and that those findings support the trial court's conclusion that, under the totality of the circumstances, defendant's confession was voluntary and understandingly made. *See generally State v. Hardy*, 339 N.C. 207, 222, 451 S.E.2d 600, 608 (1994) (discussing the standard of review and applicable law when reviewing a trial court's ruling on a defendant's motion to suppress a confession). We are unable to find any possible prejudicial error in the judgment and conclude that defendant's appeal therefrom is wholly frivolous. As a result, we conclude that defendant received a fair trial free from error.

NO ERROR.

Judges HUNTER, JR., and INMAN concur.

Report per Rule 30(e).